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ABSTRACT

In December 1996 UNESCO commissioned the Australian Broadcasting Authority to conduct a pilot study which considered a range of online issues; this report outlines the findings of the pilot study, based on data collected between February and May 1997 and updated in July 1997. The objective is to identify the main types of Internet content which may be considered illegal in the countries in the pilot study, along with the Internet content which, while legal, may be unsuitable or harmful for children. The four countries selected for the study were Australia, Malaysia, Singapore, and the United Kingdom. The report is divided into two parts. Part 1 provides an overview of the nature of the online environment and some of its important features; identifies some of the issues arising in the online services; and also identifies some of the technical developments which enable parents and supervisors to protect children from harmful or unsuitable material in the online environment. Part 2 provides a comparison and an overview of the four countries in the study, presenting a context for the subsequent discussion; identifies some of the approaches being taken in the four countries in response to the Internet; and presents some comparative data collected on some of the issues raised in Part 1. Appendices include a list of contributors; services available online; acronyms and abbreviations; and useful Web resources. (AEF)

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The Internet and some international regulatory issues relating to content:

A pilot comparative study commissioned by the United Nations Educational, Scientific and Cultural Organization

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PREFACE

The Internet is a dynamic new communications medium which has emerged at an astounding pace in recent years. It offers, along with other on-line services that make content available by means of telecommunications networks, a revolutionary means by which individuals and organizations can communicate, entertain, educate and inform. The benefits of the Internet as a tool for modern communication and education around the world are widely recognized.

However, along with the growth of these services, and a recognition of the advantages which they can provide, have come concerns about the content of some of them. How to ensure that these new services are used in the most productive manner is another major issue that has arisen.

The models adopted in many countries to regulate content in traditional media such as printed publications, film, video and television have relied on the production and distribution of content being carried out domestically in a relatively centralized and organized manner. In contrast, there is no central control or ownership of the Internet and the functions performed by the participants in the on-line environment are not as fixed as in existing publishing and broadcasting models. Most significantly, the Internet enables any person from around the globe to create content and make it available on-line.

While some have suggested that international cooperation is the best way to tackle concerns about Internet content, many countries have been investigating and implementing their own regulatory measures in relation to on-line services.

In December 1996 UNESCO commissioned the Australian Broadcasting Authority (ABA) to conduct a pilot study which considered a range of on-line issues. The pilot study was designed to enable the ABA to assess the feasibility of conducting a larger and more comprehensive study for UNESCO. The terms of reference for the pilot were:

- to provide a brief overview of the nature of the on-line environment and some of its important features;
- to provide a brief overview of some of the issues arising in the on-line environment, particularly as they relate to the content of on-line services;
- to discuss some of the technical developments which enable parents and supervisors to protect children from harmful or unsuitable material in the on-line environment, including the Platform for Content Selection (PICS); and
- to provide a brief overview of some relevant regulatory developments in Malaysia Singapore, the United Kingdom and Australia.

This report outlines the findings of the pilot study, based on data collected between February and May 1997 and updated in July 1997. It is important to note that as a pilot study this report does not aim to be a comprehensive assessment of the issues or developments in the areas within the terms of reference. Rather it intends to identify some of the relevant issues, enable the ABA to assess the feasibility of a larger study and provide a starting point for further research in this area. For this reason the report does not reach any conclusions.

Comments from readers and suggestions for further work in this area are welcome. They should be addressed to:

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Introduction

The study focuses on the issue of Internet content. In particular, the study aims to identify the main types of Internet content which may be considered illegal in the countries in the pilot study, along with Internet content which, while legal, may be unsuitable or harmful for children.

It is acknowledged that each of the countries within the pilot study has complex laws which place some restrictions on the various categories of content and how content may be dealt with within their borders. These laws often vary at federal, state or regional levels.

It was not the aim of the pilot study to assess comprehensively all the laws of each of the four countries which may impinge upon the creation, publication or distribution of content in any form.

It is also acknowledged that there are many other important issues which arise in the on-line environment. These include the issues of privacy, security, encryption and intellectual property, to name a few. The international nature of the Internet also offers enormous opportunities for on-line commercial activity. This in turn gives rise to complex issues of the rights and obligations of on-line sellers and purchasers in the international on-line environment, electronic payment systems and the application of domestic consumer protection laws. However, these areas are outside the scope of the pilot study.

Countries included in pilot study

The four countries selected for the pilot study were Australia, Malaysia, Singapore and the United Kingdom, which are dealt with in alphabetical order. The countries chosen do not represent all the major geographic regions of the world nor the range of national responses to concerns about on-line content. Rather they were selected for the following reasons:

- the likelihood that ABA would be able to collect information on the World Wide Web about the relevant laws in each of the countries, bearing in mind the short time frame available to collect data;
- each of the countries chosen had introduced or proposed some regulatory measures in relation to on-line content;
- the countries are located in three of the major geographic regions in the world - Asia, Europe and the Pacific.

It was considered that four countries was the maximum number that could be dealt with in the pilot study with the resources and time available.

Methodology for pilot study

The collection of information for the pilot study was largely undertaken using existing sources on the Internet and library sources. In particular the ABA used information posted by governmental agencies onto the World Wide Web[1] during the time that the data was being collected (February - May 1997).

Contact was established early in the project with a range of governmental agencies, relevant organizations and individuals in the four countries to inform them of the study and to invite their input. In March 1997 a draft of the study was sent to 18 of these bodies and individuals seeking comment on material collected in terms of its accuracy and coverage of issues discussed. A set of questions on specific topics was also forwarded to these bodies requesting responses by April 1997. A list of the parties to whom the drafts were sent is included at appendix A.

The ABA received responses to the invitation for comment from several agencies, organizations and individuals. Some made specific comments about the draft and the questions raised while others made only general comments about the regulatory developments in their respective countries. The ABA incorporated the comments it received, along with any more recent developments it became aware of, into the document during April and May 1997.

It should be noted that while the ABA has sought to ensure the accuracy of the information contained in the pilot study it should not be taken as a definitive statement about the laws of any country and should not be relied upon as a substitute for legal advice. Furthermore, readers should note that in such a rapidly changing environment information can quickly become out of date. The researchers have made every effort to source accurately information cited in this study, much of which was obtained using the World Wide Web. However, it should be noted that information contained on Web sites changes, is updated, and is moved around. This made the finalization of the document a challenging task.

The text of the document was completed on 30 July 1997 and the information in the document is believed to be accurate as at this date.

Structure of report

The report is in two parts. Part one provides an overview of the nature of the on-line environment and some of its important features; identifies some of the issues arising in the on-line environment, particularly as they relate to the content of on-line services, and also identifies some of the technical developments which enable parents and supervisors to protect children from harmful or unsuitable material in the on-line environment.

Part two provides an overview of the four countries in the study, providing a context for the subsequent discussion; identifies some of the approaches being taken in the four countries in response to the Internet; and presents some comparative data collected on some of the issues raised in part one.

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[1] The World Wide Web is described in appendix B.

I. The On-Line Environment

1 Nature of the on-line environment

The Internet consists of a network of computer networks which span the world. The Internet was developed in the 1960s by the United States of America for military purposes. It was designed as a decentralized communications system which could survive damage to one part of the network. Decentralization remains an important characteristic of the Internet's culture and technology.

By the 1970s, academics had begun to use the Internet as the computer networks which had emerged in universities were first linked with networks in other academic institutions, and then also to the Internet. Over the next decade an increasing number of individuals connected to the Internet and the number of users continues to increase exponentially.

Content accessible on the Internet is stored in thousands of linked computers and is available equally by and from governments, corporations, interest groups, institutions and individuals from anywhere around the world. This content is provided either free of charge, or for a fee.

The on-line environment is now a rapidly expanding international medium in which literally millions of users are providing and accessing content on a daily basis. For this reason the Internet offers an unprecedented variety and quantity of content that is continually changing as new content is created, and existing content is updated, deleted and/or moved around computers located all over the world.

Part of the reason for the growth in Internet usage flows from the relatively low costs of participation relative to other media. The necessary equipment comprises a computer, a modem and access to a telephone line, the cost of which, while not insignificant, is within the reach of many individuals and organizations.

An important feature of the on-line environment is that although content can be accessed from any computer connected to the network, the content may be actually stored on a number of different computers or 'servers', which need not be in the same jurisdiction as the person accessing the material.

It is also important to note that the Internet did not depend on commercial incentives for its growth. Rather it has developed essentially from a desire to share and obtain information, entertain, and communicate. Many Internet users view themselves as part of an 'Internet community'.

As no single entity controls the operation of the Internet or the material available on it, it is impossible to determine at any one time what exactly the Internet looks like, its size or the

quality or quantity of content available.

One of the most important features of the Internet is that it enables any person with access to the Internet to create their own material and make it available to others, wherever they may be located.

This means that the Internet has enormous potential as a means to increase the diversity of information and views which are expressed by and accessible to users around the world.

Participants in the on-line environment

For the purposes of this study, it is useful to identify the functions that are performed by those who are participating in the on-line medium. These functions include providing content, accessing content, connecting others to the network and providing the telecommunications infrastructure. However, it is important to recognize that, unlike traditional broadcasting and publishing models where the roles of content providers, publishers and viewers tend to be fairly fixed, the activities being performed by a participant on the Internet often encompass more than one function. Many participants perform different functions at different times, or different functions at the same time.

Users/content providers

Of all the functions being performed in the on-line environment the distinction between 'users' and 'content providers' may be the most complex. This is because any person or organization can access and/or add to content available at any time. For example, a person can read and send text to a newsgroup or mailing list, create a Web site or browse and retrieve information. All of these activities may occur during the one Internet session. Accordingly, drawing a distinction between providing content and accessing content is really a theoretical construct that usefully describes the two separate functions. It is important to acknowledge that in reality these are often performed by the same participant in the on-line environment.

However, for the purpose of the pilot study, the term 'user' is generally used to refer to a person who accesses material available on-line, typically via a link with the network through a service provider.

A 'content provider' is described as a person or organization which provides material in the on-line environment. Content may comprise text, data, still graphics, audio, video, computer programs or a combination of all of these. It is also recognized that in the on-line environment there are some parties who create content and then provide it to others, such as a service provider, to place it on-line on their behalf. This is often the subject of a commercial or legal relationship between a content provider and a service provider.

On-line service providers

Organizations and individuals who provide users or content providers with access to the Internet are described in this study as service providers. This term incorporates those who merely provide access to the computer networks which form the Internet, sometimes called 'access providers', as well as those who provide access along with additional services to their clients. These services include assisting clients to transform content into an attractive format display on the World Wide Web, facilitating easy access to new and/or interesting sites and

help desk facilities.

Service providers range in size and nature from individuals and small businesses, to universities, government corporations and multinational organizations with operations in several countries.

Service providers usually provide their clients with 'space' to store content, such as Web sites, on their computers, which are sometimes called 'servers'. This enables their clients to provide content which can be accessed by other Internet users. Different service providers have different policies regarding the material which their clients provide and store on their servers. Some service providers require content providers to meet certain standards, whilst others do not wish to concern themselves with the nature of content at all.

Service providers who provide access to the Internet operate as part of a network of computers. Accordingly, they enable users to access content contained on their own servers, as well as material held on the network of computers that make up the Internet. This material may be stored on computers within the country in which the service providers operate, or on other computers around the world.

Some service providers also temporarily store or 'cache' popular Internet content from remote computers onto their servers in order to facilitate faster and more efficient access to this material for their users.

It is important to recognize that due to the vast amounts of Internet content which can be accessed from computers all around the world and the fact that Internet content is constantly changing, service providers are often not aware of, and are not in a position to be aware of, most of the material which can be accessed by those who use their service. This distinguishes service providers on the Internet from service providers in traditional media where a far greater degree of control can be exercised over content.

Network infrastructure providers

The network infrastructure necessary to support on-line services in any country is usually provided by telecommunication carriers.

In the pilot study the parties who provide this service are referred to as network infrastructure providers. On-line service providers usually lease telephone and data line capacity directly from the network infrastructure providers, or from 'resellers'. In some cases, one entity may perform these two separate functions in the on-line environment so that they fall within the definition of both a network infrastructure provider and a service provider.

Opportunities presented by on-line services

There are a wide range of services which are presently available via the Internet. These include e-mail, Usenet newsgroups and the World Wide Web.[2] These services present virtually unlimited opportunities for enhancing the way we communicate, access information, educate

[2] These and some of the other popular forms of Internet services are described in appendix B.

and entertain ourselves.

As a means of communication

From the time the Internet was first developed it has been used for virtually all forms of communication, from one-to-one communications to one-to-many communications. Forums also exist for group discussions in 'real time', as well as 'over time'.

E-mail communication allows users to send text messages and files to one another via personal computers. Its popularity stems from convenience, speed of delivery and low cost, as well as the capacity to reach millions of people throughout the world. In addition, the ability to transmit files of information in the form of documents, spreadsheets, graphics, sounds and computer programs as attachments to messages makes e-mail a powerful application. E-mail is increasingly used as a mainstream form of communication for individuals, governments, educational bodies and industry.

E-mail messages are most often used for private communication, as they are addressed to an individual person or group of named individuals. In this respect, e-mail can perform a similar function to letters, faxes and telephone calls.

E-mail messages can also be sent to groups of people who are members of mailing lists. These lists are usually maintained on specific computers to which individuals can subscribe by submitting their e-mail addresses. While some mailing lists are not controlled in any way, others are supervised in that each message sent to the list is reviewed by a person who then decides whether to allow the message to be sent on to members, called a moderator. Similarly, the acceptance of new members to a list may be controlled by a moderator.

Usenet 'newsgroups' are another popular mode of communication using e-mail contributions. The term 'newsgroups' generally refers to a world wide distributed system of discussion forums. Forums have been set up on virtually every topic imaginable and users whose service provider subscribes to a particular 'newsgroup' can access and participate in these open group discussions. E-mail messages are posted onto news servers which are distributed to other news servers around the world.

An e-mail can also serve as a form of identification when a person subscribes to additional services or seeks to access content from other computers. However, e-mail addresses need not reflect the actual name of any given person or organization and a person may have several e-mail addresses and/or use pseudonyms or aliases in their on-line communications. It should also be noted that e-mail addresses can also be falsified.

Content providers can also communicate with a wide audience by establishing a site on the World Wide Web. The World Wide Web (WWW) is an information storage system which enables any person to display text, graphics, or provide video, audio services and software in a manner that can be accessed by any other person connected to the network. The WWW has played an important role in advancing the popularity of the Internet.

Other popular forms of communication used over the Internet include Internet Relay Chat, Telnet, File Transfer Protocol and on-line games. More details of these services are included at appendix B.

The ability to use these modes of communication to reach a potentially international audience

is one of the most important aspects of the Internet. It has the potential to enhance social and political participation of individuals and enable the exchange of ideas across geographic and political boundaries.

As a source of education

The Internet provides a significant educational and cultural resource. Through the Internet, users can access databases, texts, journals, articles, reports, state and government documents, encyclopedias and legislation, along with a range of other resources held by public and university libraries, government departments and organizations around the world. Many art galleries, museums and cultural institutions have also established Web sites containing images and information about works in their collections or on topics of general interest to the public.

The Internet also enables researchers and students to communicate directly with others with similar interests around the world and has been an extremely important resource for a large number of educational organizations for over a decade. The use of on-line services is well-established in the university and research environments.

In recent years, other education sectors including schools have begun to utilize on-line technologies to extend the reach and effectiveness of teachers' work in terms of curriculum development, delivery of material and provision of professional support and development services.

The Internet also offers new possibilities for 'open learning' and learning by distance education. This has enormous potential to increase access to educational facilities for those in rural or non-metropolitan communities. It also enables students to enroll in a course of study with educational institutions around the globe.

As a source of entertainment

The Internet has the potential to become an important source of entertainment for users world wide. Already vast numbers of computer games, on-line magazines, newspapers, video and audio services are available on the Internet.

Whilst many users can entertain themselves for hours 'surfing the net' for information, images and discussions regarding matters of interest to them, it is also important to note that in recent times many existing content industries are starting to use the Internet to deliver traditional audio and video products.

Over the next few years it is anticipated that the Internet will increasingly become a major source of the type of entertainment products which are currently available on television, radio, video and CD-ROM.

As more secure methods of collecting payment for services over the Internet become available, it is expected that the Internet will also provide a common medium by which entertainment products and services are purchased.

2 Some legal and ethical issues arising in the on-line environment

As discussed in the previous chapter, Internet content includes text, still images, video and audio facilities which have been provided by the millions of people connected to the network. The on-line environment, or 'cyberspace' as it is often called, and the content which is available within it, is increasingly becoming a mirror of the off-line world, with all the variety and complexity of experiences and information it has to offer. Being a reflection of the real world, on-line content also contains material which is prohibited under the laws of various countries and material which is unsuitable for minors.

The international, interactive and decentralized nature of the Internet and its potential for making available vast quantities of content to and from anywhere in the world give rise to a number of legal and ethical dilemmas. The following is not intended to be a complete discussion of all the issues which arise from the Internet, but an outline of some of those issues which create significant challenges, particularly in relation to content.

Illegal content

Most countries around the world place some restrictions on the type of material which may be possessed and/or disseminated within their borders. The extent to which material in any country is subject to restrictions reflects the different political, cultural and legal traditions existing in each country. These may vary immensely.

For example, in many countries it is an offence to disseminate various types of explicitly sexual or extremely violent material. Some countries also make it an offence to publish in certain ways material which vilifies on the basis of gender, race or sexual orientation. In other countries it is an offence to publish and/or distribute material which criticizes the government or may threaten national or racial harmony.

The features of the on-line environment, however, make it extremely difficult to detect and enforce national laws relating to content. These features include the vast amount of content which is available on the Internet, the international source of much of that content, the fact that the Internet is decentralized and, the inconsistencies in the laws of different countries. For example, material which may be illegal in one country may be stored and subsequently accessed from countries where the material is legal. It may also be transmitted through a number of other countries, each of which has its own laws regarding the material. Even where there is some agreement across jurisdictions relating to certain material, such as child pornography, the specific provisions of the various laws relating to the topic can differ significantly, making prosecution and international cooperation difficult. These factors create the possibility of particular countries becoming 'safe havens' for material which is in breach of the criminal laws of other countries.

Sometimes even determining what is illegal in any particular country can be difficult due to the generality of the various national laws. For example, laws often set out broad categories of restricted material, such as 'obscene' material, and rely on the discretion of courts, juries or sometimes Government Ministers to determine what is encompassed by the prohibition. Without a detailed understanding of a particular country's legal system, it can be particularly

difficult to identify what is prohibited in any given country at any given time.

The ability to 'mirror' or copy sites on the World Wide Web can also present difficulties for traditional law enforcement agencies. Sites are often mirrored many times in different jurisdictions around the world to facilitate ease of access to content by users. Where a site is found to contain material which is problematic in one jurisdiction it can be very difficult, if not impossible, to prevent access not only to that site, but also to any number of mirrored sites which may also contain identical content.

The ability to communicate anonymously in the on-line environment, which provides users with a sense of freedom that may not be possible in the off-line world, also means that detecting those providing and accessing material which is prohibited can be difficult. Anonymous re-mailing services can exacerbate this difficulty as Internet messages can be re-routed and copied in such a way that it is not possible to reliably ascertain their source.

The encryption of content adds a further dimension to the difficulties of dealing with illegal material in the on-line environment.

Material which is unsuitable for minors

It is widely accepted around the world that whilst certain kinds of content may be appropriate for adults to access, such content may be unsuitable for children. Material which is sexually explicit or violent is often included in the type of content which is considered unsuitable or harmful for minors.

In traditional media, such as printed publications, film, video and television, many mechanisms have been adopted to limit children's access to unsuitable material. These range from age restrictions on material which can be purchased or viewed in cinemas to time zone classifications which restrict the type of programmes which can be screened on television at times when children are likely to be watching.

Perceptions about the types of material which are suitable for children and young people vary immensely not only across national boundaries but also across cultures, religions and political systems. In some communities there is a high level of concern regarding material containing sex and nudity, while in others material containing violent matter or drug abuse is considered to be the most offensive. Even within fairly homogeneous cultures there may be a wide range of views about the appropriateness of certain material for minors, particularly when the material relates to sex, nudity, violence, language, and drug use.

However, the availability of material which is considered unsuitable or harmful for minors presents particular challenges in the context of the Internet. The Internet allows material to be accessed at any time in an interactive manner. Most material is not restricted in any way. The main exception is material in which credit card details or some other form of payment is required.

Accordingly, there is growing concern about the ability of minors to access material which is unsuitable for them. At the same time, many countries recognize the rights of adults to provide and access material on the Internet which is legal for them to deal with in other media.

In response to this concern a number of technical options have been developed and are discussed in more detail in chapter 3. A particular challenge in this area is ensuring that these

products are able to accommodate the diverse range of views and cultural perspectives which prevail around the world in relation to the protection of minors.

Access to on-line services

It is important to avoid adopting a simplistic approach to the benefits of the Internet without recognizing the role of access in the equation. Equitable access to the Internet remains a fundamental issue which will impact on the ability of individuals to participate in the benefits available through this new medium. Access will be affected by the social, economic and political paradigms operating at both national, regional and household levels. In particular, the costs of accessing the relevant hardware, such as a computer and a modem, along with the costs of connecting to the network, typically via a service provider, will have an impact on the opportunities presented to any given individual. Accordingly, ensuring equity of access to on-line services is emerging as a major challenge which is likely to have a concomitant impact on the issue of access to information, educational facilities and cultural resources, and all of the opportunities which flow from these.

Diversity of content

At present, a significant proportion of Internet content appears to originate in Western liberal democracies, and particularly the United States of America. This material inevitably reflects some of the social, political and ethical values of those communities. A substantial proportion of Internet content is also expressed in the English language.

If the Internet is to reach its potential as a diverse medium, one of the challenges will be to ensure that it does not become an increasingly homogenized environment which enhances the dominance of particular languages and cultural perspectives. In this regard it is noted that many countries have adopted strategies to ensure local content and community participation for television and radio. These strategies are not easily adopted or even appropriate for Internet communications.

In order to maximize the diverse content and range of cultural and linguistic perspectives which can be accessed on-line it will be important not only to maximize access to the Internet but also to encourage participants from all parts of the world to play an interactive role and contribute to the body of data which can be accessed by others through that medium.

3 Some responses to the challenges of the on-line environment

The unique, global nature of the Internet means that it cannot be controlled by any centralized body. Furthermore, its dynamic character means that it is impossible to assess the amount or types of Internet content at any given time.

However, many argue that this does not mean that nothing can or should be done about content on the Internet. In considering the strategies to deal with the issues raised about content the ABA identified four common themes. These are:

- the development of codes of practice for on-line participants, such as service providers and content providers, with varying degrees of governmental input;
- the application of existing legislation or the introduction of specific legislation penalizing dealings with certain on-line content, along with the establishment of e-mail hotlines for reporting 'illegal' content;
- technical developments for controlling children's access to Internet content, including filter software and content labelling; and
- the adoption of programmes for community education.

These four themes have been used as a framework for the collection of data in the pilot study. Outlined below is a brief discussion about each of these themes.

Industry codes of practice

Codes of practice, or codes of conduct as they are sometimes called, are used increasingly in various industries around the world to provide a regulatory framework which is more flexible than legislation and in which the relevant industry plays an important role.

Codes of practice may be developed by industry alone, or they may be developed following a consultative process between industry and government. In some cases codes of practice operate within class licensing regimes.

Codes of practice, mainly for service providers, are being developed in a number of countries to try and address some of the issues arising in the on-line environment by setting out rules, procedures and best practices for the various participants. The codes may deal with a wide range of issues, including but not limited to the rights and responsibilities of relevant parties in regard to providing and accessing content, the minimum age of subscribers, privacy and data protection, fair trading, advertising and promotional material. Codes may also provide information about the options available to parents to manage children's access to material which may be unsuitable to them.

In chapter 5, this study considers whether codes of practice have been adopted or proposed in each of the four countries included in the pilot study.

Legislation relating to on-line content

Most countries have some legislation which prohibits the publication or distribution of certain material. In some countries it is also an offence to possess certain material, such as child pornography.

In some cases existing legislation regarding the publication, distribution and possession of certain types of content has been drafted in a manner which may enable it to encompass material transmitted and/or accessed on-line. In other jurisdictions, however, specific legislation to deal with illegal content in the on-line environment has been proposed or introduced.

In chapter 6, this study considers some of the legislation which applies to on-line services in each of the four countries and notes the types of material which may be prohibited within each of those jurisdictions.

The study also considers the development of reporting mechanisms for illegal content, often called 'e-mail hotlines'. These enable Internet users who locate content which they believe is illegal to report their finding to a reporting agency which may take action in relation to the material.

Technical developments which enable the protection of minors

A range of software products has been developed for use on computers in the home and in schools in response to the perceived need for parents, teachers and supervisors to filter out or block Internet content which they do not consider suitable for minors in their care.

Filter software can be provided to the user by the on-line service provider or can be purchased or downloaded by the consumer, often without charge, for use at the individual computer level. Filtering systems can also be provided at the on-line service provider level to assist in the management of access to on-line content. Filtering programmes work in three main ways:

- sites are blocked with reference to a list of known newsgroups, World Wide Web, FTP[3] and other sites. Censoring decisions may be made centrally by the software producer with sites updated regularly, and/or by users instructing their system to block a particular site(s);
- requests for, or receipt of, information which contains specified keywords or phrases are blocked. The keywords or phrases can be specified by the software manufacturer or by the end users who manage the blocking of Web sites by entering keywords and phrases in accordance with criteria they consider appropriate; and
- all sites are blocked except those which are specified by the supervisor. Usually there would be an original unblocked list of known educational sites, and the supervisor is able to unblock new sites by using a password.

Products can combine blocking of sites with filtering of keywords, while some programmes offer additional features, including listing sites accessed, restricting the amount of time spent

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[3] FTP or file transfer protocol - see appendix B.

on-line and limiting access to some services such as newsgroups. Some popular filter software products include Net Nanny, SurfWatch and CyberSitter.

Platform for Internet content selection

In late 1995 there were some important developments with content and selection software which led to the technology for labelling of on-line content. This technology is called the Platform for Internet Content Selection (PICS). PICS was developed by the World Wide Web Consortium (W3C). W3C is a non-governmental cross-industry group which has offices in the USA, France and Japan and comprises representatives of the computer, communications and content industries, as well as trade associations and public interest groups.

One of the goals of PICS is to facilitate the development of technologies to give users of interactive media such as the Internet, the ability to control the kinds of material to which they, or their children, have access. PICS works by allowing 'ratings tags' or labels to be associated with a particular resource, such as a World Wide Web page. These tags can be inserted by the person creating the page (self-rating) or by a third party who allocates a label and stores lables on a remote server (third-party rating). Based on these labels, the end-user can decide to accept or block access to the resource in question.

The PICS technology allows any organization or individual to develop a labelling system which reflects their tastes and standards and, if they wish, enable others to also use these labels to select or block content.

There are a number of scenarios in which the PICS labels can be used. For example, labels may be developed to indicate whether Internet content contains sexual or violent material, enabling parents to select or block the material accordingly. A teacher might label materials which are relevant to an astronomy lesson and block student access to everything else during that class. Business may also wish to use labels to block their employees from visiting recreational sites during office hours.

A number of PICS-based labelling schemes have been developed which seek to assist parents in managing their children's access to Internet content. Examples are the Recreational Software Advisory Council labelling scheme for the Internet (RSACi), SafeSurf, Cyber Patrol and Net Shepherd.

In chapter 7 this pilot study considers the steps taken in Australia, Malaysia, Singapore and the United Kingdom to specifically address the issue of children's access to unsuitable material on the Internet and identifies any schemes or proposals regarding the use of filtering systems and PICS compatible labelling schemes.

Programmes for community education

It is widely recognized that if the Internet is to be used to its full potential, there is a need for enhanced community understanding of the Internet and the opportunities it offers. In a number of countries, community education strategies have been adopted or proposed to meet this need. A priority for many of these programmes is parental education, as many parents feel that they do not have as much experience in relation to on-line services as their children and do not feel that they are able to use effectively some of the technical options available to them for limiting children's access to inappropriate content on the Internet.

A number of programmes and policies have also been proposed or introduced which enhance the knowledge and technical ability of school and tertiary teachers who will play an important role in ensuring that children are able to maximize the benefits of on-line services.

In chapter 8 this study identifies some programmes and strategies which have been proposed or introduced in the four countries to enhance community understanding of on-line services, including proposals for the educational sector.

II. Comparison of Four Countries

4 Overview of the four countries: Australia, Malaysia, Singapore and the United Kingdom

Australia

Australia's population exceeds 18 million: the estimated resident population as at December 1996 was 18 426 900.[4] The population is made up of people from many different cultural and national backgrounds making Australia one of the most ethnically diverse countries in the world. In August 1996, 73.9 per cent of the population was born in Australia, and of this approximately two per cent was Aboriginal or Torres Strait Islander.[5] In 1996, people born outside Australia comprised 26.1 per cent of the population. People born in the United Kingdom, Ireland or New Zealand made up 7.9 per cent, while the other 18.2 per cent was made up of people born in a wide range of countries including Italy, Greece, Vietnam, China and Germany.[6]

English is the national language, however, in line with its ethnically diverse background, many other languages are spoken in the community. These include the 'indigenous languages of the Aboriginal and Torres Strait Islander peoples, as well as European and Asian languages'.[7] In the 1996 population census, almost two and a half million people (15 per cent of the population aged five years and over) spoke a language other than English at home.

In the 1996 census, 70.3 per cent of the population nominated a Christian denomination as their religion,[8] and 3.4 per cent nominated non-Christian religions including Islam, Buddhism, Judaism and Hinduism.

Australia has a three tiered system of government: Federal, State and local. The Federal, or Commonwealth, Government is a federation of the six States and two Territories; there are six State and two Territory governments; and there are numerous local governments. The Australian system of government at the Federal and State level is derived from the British Westminster system. Australia is a constitutional monarchy and the British Monarch is the head of state, represented in Australia by the Governor-General.

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[4] Australian Bureau of Statistics 1996, *Australian Demographic Statistics: December Quarter 1996*, AGPS, Canberra, 3101.0.

[5] Australian Bureau of Statistics, *Census of Population and Housing: Selected Social and Housing Characteristics: Australia*, 1997, ABS, Canberra, 2015.0, p.1.

[6] ibid., p.19.

[7] ibid., pp.3 & 41.

[8] ibid., p.41.

On-line services

Australians have a history of rapid uptake of new technologies and the Internet is no exception. In 1996 Telstra commissioned DBM Consultants to carry out research on Internet usage in Australia. The Telstra report, released in June 1996, found that 7 per cent of Australian households had access to the Internet and that 16 percent of all Australians had accessed the Internet at some time.[9]

An AGB McNair survey conducted in September 1996 indicated that 16 per cent of Australians aged 14 years and over (about 2.4 million people) had accessed the Internet at some time.[10] The same survey found that 11 per cent of Australians aged 14 years and over had accessed the Internet in August/September 1996.

Nikkei BizTech Inc. recently reported that there were 2 million Internet users in Australia in 1996 and this was expected to rise to 3 million in 1997.[11]

The top five reasons given for using the Internet in the AGB McNair survey were 'surfing' (59 per cent), 'e-mail' (42 per cent), 'educational' (26 per cent), 'download software' (25 per cent) and 'download files' (24 per cent).

Australians who wish to connect to the Internet have a large number of service providers to choose from. On-line service providers lease telephone and data line capacity directly from the telecommunications carriers, or from 'resellers'. In 1996 it was estimated that there were more than two hundred and thirty service providers operating in Australia.[12] This is estimated to have increased to more than four hundred service providers by June 1997.[13]

At the time of writing, there are two major fixed wire and mobile services operating in Australia: Telstra Corporation and Optus Communications; and one mobile service operator, Vodaphone.

Additional licensed carriers have recently begun to enter the market following further deregulation of the Australian telecommunications market which occurred after the *Telecommunications Act 1996* took effect on 1 July 1997.

Malaysia

In 1996 Malaysia's official population was 20.567 million people.[14] The population is made up of people from a range of national and cultural backgrounds and the languages spoken reflect

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[9] 'Telstra Internet Survey Unveils Explosive Growth', Telstra Press Release, 14 June 1996, at http://www.telstra.com.au/press/yr96/jun96/96061404.htm

[10] Survey results reported in A.C. Nielsen 1996, *Nielsen Media Update: November 1996*, 1996, Sydney, p. 11.

[11] 'Asian Internet Users to Grow 10-fold in Five Years', JapanBizTech News, at http://www.japanbiztech.com/articles/JPCM970222UKN504P0T0F0.html

[12] Australian Broadcasting Authority 1996, *Investigation into the Content of On-line Services: Report to the Minister for Communications and the Arts*, Australian Broadcasting Authority, Sydney, p.35 or http://www.dca.gov.au/aba/invest.htm.

[13] Cutler & Company Pty Ltd, Melbourne, March 1997

[14] 'Key Data and Forecasts', Malaysia Homepage, reported at http://www.jaring.my/malaysia/economy/budget95/ec95-1.html

this diversity.

On the Malaysian peninsula there are three main ethnic groups, namely Malays, Chinese and Indians. In Sabah and Sarawak, the two States on the island of Borneo, Iban, Kadazan and Bidayuh are the main indigenous ethnic groups. Bahasa Malaysia is the official national language, but Chinese dialects and Tamil are still widely used in their respective communities, and many people speak English.[15]

Islam is the official religion representing 57 per cent of the population. Christianity, Buddhism and Hinduism are also well represented in the population.

Malaysia is a confederation of 13 States and two Federal Districts. It is a parliamentary monarchy whose monarch is elected every five years by the nine hereditary Malay rulers of Malaysia from among their own number.

On-line services

There is a range of estimates for Internet usage in Malaysia.

Cutler & Co, a Melbourne-based consulting firm, estimates that in March 1997 there were more than one hundred thousand subscribers to Internet services in Malaysia and that some forty thousand people are waiting to be connected.[16]

Byte, an on-line magazine, has estimated that the number of subscribers to Internet service providers in Malaysia was 100 000 in 1995 (less than one per cent of the population) and that by 1997 the number of subscribers would be 495 000 (approximately three per cent of the population).[17]

Nikkei BizTech Inc. recently reported that there were 200 000 Internet users in Malaysia in 1996 and this was expected to rise to 300 000 in 1997.[18]

The Malaysian government has recently announced the Multimedia Super Corridor (MSC), an initiative aimed at providing a 'regional launch site for companies developing or using multimedia technologies'.[19] The MSC project aims to 'create a perfect environment for companies wanting to create, distribute, and employ multimedia products and services'.[20]

Until November 1996, Joint Advanced Research Integrated Networking (JARING) was the only Internet service provider in Malaysia. JARING is operated by the Malaysian Institute

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[15] Reported at http://www.jaring.my/msia/back/ms.html

[16] Cutler & Company Pty Ltd, Melbourne, March 1997

[17] 'Asian Internet Fever', *Byte*, http://www.byte.com/art/9608/sec16/art5.htm dated 6 February 1997

[18] 'Asian Internet Users to Grow 10-fold in Five Years', *JapanBizTech News*, at http://www.japanbiztech.com/articles/JPCM970222UKN504P0T0F0.html

[19] See http://www.mdc.com.my/index_fol/intro/index.html. The MSC project is discussed further in chapter 5. See also http://www.mdc.com.my/msc/index.html.

[20] See http://www1.mdc.com.my/mdc1/infras/overview.index.html. See also a paper presented by Mr Dinesh Nair at the *DAP - Organized IT for All Conference* (Kuala Lumpur, 23 March 1997), which states: 'Encompassing what is now known as the Internet, along with new and more robust communications networks and infrastructure, the MSC hopes to serve as a hub of development and dissemination of digital content for the world'.

of Microelectronics Systems (MIMOS Berhad), a government agency under the Science Ministry which has had the overall responsibility for maintaining the network backbone. In July 1996, Telekom Malaysia Berhad obtained a licence to provide Internet services and became the second Internet service provider in the country, under the name TMnet. These two operators can be described as wholesale service providers. In Malaysia, a licence from the Telecommunications Ministry is required to provide Internet services.

JARING and TMnet have appointed access service providers which are responsible for providing their respective access services, including promotion, membership, registration, installing equipment such as modems, computers and software, maintenance and technical support. MIMOS and Malaysia Telekom continue to manage the backbone network, including all the JARING and TMnet nodes and the international gateway to the global Internet. However, it is likely that in the next few months, as part of a broader 'convergence' policy review, a number of other licensed network operators, such as Celcom, Binariang, Mutiara, Telecomms and Time Telecommunications will be licensed for Internet Service provision.[21]

Singapore

In 1996 the population of Singapore was estimated to be 3.05 million.[22] This was made up of the following groups: Chinese (77.4 per cent), Malays (14.2 per cent), Indians (7.2 per cent) and other ethnic groups (1.2 per cent).

The official languages of Singapore are Malay, Chinese (Mandarin), Tamil and English. Malay is the national language and English is the language of administration.

Buddhism (31.9 per cent) and Taoism (22 per cent) are the two major religions and together account for more than half the population. Other major religions are Islam (14.9 per cent), Christianity (12.9 per cent), and Hinduism (3.3 per cent), whilst 14.5 per cent of Singaporeans described themselves as having 'no religion'.[23]

Singapore is a republic with a parliamentary system of government based on the Westminster model. The head of state is an elected President.

On-line services

Public Internet access began in Singapore in 1994 with one commercial Internet service provider. Since then, there has been significant growth of Internet usage and provision in Singapore. The Singapore Broadcasting Authority (SBA) has advised that the number of service providers has grown to three Internet access providers, 16 non-localized Internet service resellers and 28 localized Internet service resellers such as cybercafes. Between 1994 and 1997 the number of Internet subscribers in Singapore increased from 50 000 to 200 000,

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[21] Cutler & Company, Melbourne, 1997

[22] Singapore Broadcasting Authority. See also Balachandrer, S.B. (ed.) 1996, *Singapore 1996*, Ministry of Information and the Arts, Singapore. *Singapore 1996* is available on the WWW. It appears as 'Introduction to Singapore', see http://www.sg/infomap/mita

[23] ibid.

comprising nearly six per cent of the population.[24]

Nikkei BizTech Inc. recently reported that there were 100 000 Internet users in Singapore in 1996 and this was expected to rise to 150 000 in 1997.[25]

A more dynamic assessment was made by *Byte* magazine, which recently estimated that the number of subscribers to Internet service providers in Singapore was 100 000 in 1995 and estimated that by 1997 the number of subscribers would be 495 000.[26]

United Kingdom

The United Kingdom of Great Britain and Northern Ireland, comprising England, Wales and Scotland and Northern Ireland, has a population of more than fifty-eight million.[27] The ethnic mix of the population includes Anglo-Saxons, and sizeable ethnic groups who originated from the former British colonies in the Caribbean and the south Asian sub-continent. The UK also includes large numbers of residents who originated from the United States of America, Canada, Australia, China, Greek and Turkish Cyprus, Italy and Spain.[28]

In the 1991 census slightly more than three million people (5.5 per cent) described themselves as belonging to an ethnic group other than the 'white' group. Nearly half of the ethnic minority population was born in Britain.[29]

Although the UK is predominantly Christian, most of the world's religions are represented, including sizeable Muslim, Hindu, Jewish and Sikh communities. The Muslim population is the largest non-Christian grouping in the country.[30]

The UK is a constitutional monarchy with an elected Parliament and Prime Minister. The British monarch is the head of state.

On-line services

In its *1996 Internet Report*, Continental Research estimated that six million people in the UK (13 per cent of the population) have accessed the Internet at some time and that 4.6 million people, or 9.9 per cent of the population aged 15 years plus used the Internet at least occasionally.[31] The Department of Trade and Industry recently estimated that in 1996 there were approximately 676 000 home Internet subscribers in the UK, a number which was predicted to increase to 2.5 million by the year 2000 (1.4 million being described as 'active

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[24] Singapore Broadcasting Authority, March 1997

[25] 'Asian Internet Users to Grow 10-fold in Five Years', *JapanBizTech News*, at http://www.japanbiztech.com/articles/JPCM970222UKN504P0T0F0.html

[26] 'Asian Internet Fever', *Byte* on-line magazine, http://www.byte.com/art/9608/sec16/art5.htm dated 6/2/97

[27] *People in Britain*, Foreign & Commonwealth Office, London, 1996, p.9

[28] ibid., p.13

[29] ibid., p.13.

[30] ibid., p.32.

[31] Continental Research *The 1996 Internet Report: Awareness, Access and Usage* Continental Research 1996 p.10.

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users').[32]

In another study it was estimated that there were between 525 000 and 825 000 active users of commercial, dial-up Internet access services in the UK in March 1997.[33] This estimate does not include users whose connectivity is delivered through a leased or ISDN line at a place of work or education.

Another recent survey conducted by IDC/Link, *Global New Media Consumer Survey*, has stated that the percentage of households in the UK with both personal computers (PCs) and access to the Internet is 9.5 per cent.[34] The survey, which examined use of consumer technologies in 16 countries, found that the UK figure for households with PCs accessing the Internet was the second highest in Europe, behind Germany with 11.7 per cent.

It was reported that in July 1997 there were 247 Internet service providers in the UK.[35]

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[32] Letter from the Broadcasting Standards Council to the ABA dated 25 March 1997, p.2

[33] Green, Roger *'Who What, When, Where, Why...': UK Market Overview* http://www.rivernet.co.uk/marketing.html

[34] A brief description of the results of the *Global New Media Consumer Survey* was at http://www.mmp.co.uk/mmp/archive/anet/HTM/128n!g.htm (8 January 1997)

[35] Letter from Continental Research, London, dated 14 July 1997

Summary table

Table 1: Four country comparison: general overview

	Australia	Malaysia	Singapore	UK
Estimated population	18.2 million	20.567 million	3.05 million	58.782 million
Internet use	estimated 1.65 million people had accessed the Internet in Aug/Sept 1996 11% of population estimated 2.4 million users have used the Internet at some time 16% of the population aged 14+	estimated 200 000 users in 1996 1% of the population	estimated 200 000 users in 1997. 5% of the population	estimated 4.6 million users used the Internet at least occasionally 9.9% of the population aged 15+
Internet service providers	more than 400	2 wholesalers	3 Internet access service providers and 44 service resellers	more than 240

5 Approach to regulation of on-line services

Australia

General framework

On 15 July 1997 the Federal Minister for Communications and the Arts and the Attorney General announced for public comment the legislative principles which will underpin the regulatory framework for the regulation of on-line services in Australia. The principles are based largely on the Report of the ABA's On-Line Services Investigation.

ABA Investigation

In July 1995, the Federal Minister for Communications and the Arts directed the ABA to conduct an investigation into a wide range of on-line issues. This included the content of on-line information and entertainment services, including services on the Internet. The ABA was also directed to consider the appropriateness of developing codes of practice for on-line services which, as far as possible, are in accordance with community standards.

On 1 July 1996, the ABA delivered its report, *Investigation into the Content of On-line Services*, to the Minister for Communications and the Arts, Senator Richard Alston. The report recommended that a substantially self-regulatory framework be developed for on-line services in Australia.[36]

The three main features of this proposed regime were:

- codes of practice for service providers;
- the development of voluntary Internet content labelling schemes which will provide parents and supervisors with options to protect minors from material which may be harmful to them; and
- a community education programme to assist the Australian public in maximizing the benefits available through the use of these new services.

The ABA also noted that services available on-line include content intended for both public and private communications. The ABA recommended that, in accordance with the protection afforded to telephone services in Australia, essentially private communications, such as e-mail, should be exempt from any new regulatory regime.

The National Framework for On-Line Content Regulation

The legislative principles announced on 15 July 1997 have on a number of key elements. These include:

- facilitating the establishment of codes of practice by the on-line service provider industry,

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[36] Australian Broadcasting Authority 1996 *Investigation into the Content of On-line Services: Report to the Minister for Communications and the Arts* Australian Broadcasting Authority, Sydney http://www.dca.gov.au/aba/invest.htm

which incorporates effective, appropriate and fast complaints procedures. The ABA will be the industry regulator for the new scheme;

- encouraging the States to adopt an approach which is supportive of the national industry based scheme, through both the Standing Committee of State Attorneys-General and the On-line Government Council;
- pursuing the development of international collaborative arrangements, such as the Platform for Internet Content Selection (PICS) and codes of practice in international fora; and
- encouraging greater community awareness and fostering education programmes.[37]

This proposed regulatory regime will require a substantive amendment to the *Broadcasting Services Act 1992* as the jurisdiction of the ABA does not currently extend to the majority of services available over the Internet.

As an interim measure, the Government has recently introduced a minor amendment to this Act. This empowers the Minister to issue the ABA with a further direction to work in the on-line area until the substantive amendments to the Act are introduced. A new direction is expected in later in 1997.

In addition to the proposed regulatory regime for on-line services, including services on the Internet, there is a range of laws in the various Australian States and Territories which may apply to the Internet. These laws function within the cooperative regulatory arrangements, adopted by the Commonwealth and the States, for dealing with publications, films and computer games introduced in 1996.

The State and Territory laws which complement the cooperative regime provide criminal sanctions in each of those jurisdictions for breaches in relation to classification of material and for unlawful dealings with material which would be refused classification under the National Classification Code. In some jurisdictions it is believed that the existing legislation adequately addresses on-line dealings which would be illegal if carried out off-line. In others, namely Victoria, Western Australia and the Northern Territory, new provisions to deal with on-line services have been introduced. These Acts are the *Classification (Publications, Films and Computer Games) (Enforcement) Act 1995* (Victoria), *Censorship Act 1995* (Western Australia) and the *Classification of Publications and Films Amendment Act 1995* (Northern Territory).

It should be noted that the Federal Government has indicated its support for a uniform, national approach in the on-line area.

The legal mechanisms which exist or have been proposed for dealing with illegal material on the Internet are discussed in chapter 6.

Codes of practice

The ABA's report contained a number of specific recommendations relating to the

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[37] *Australian On-Line Content Regulation*, Department of Communications and the Arts, Licensed Broadcasting and Information Services Division http://www.dca.gov.au/on_line/on_cont.html and http://www.dca.gov.au/policy/fwork_4_online-svces/framework.htm

development of codes of practice for service providers. These included development of the codes by service providers after a process of public consultation, registration of the codes with the ABA, and monitoring of the codes by the ABA to assess their effectiveness.[38]

The report also recommended the development of a complaints handling regime specifically for on-line services. As part of its role in monitoring the effectiveness of codes of practice, the ABA recommended that it perform an independent appeals function for any unresolved complaints.

A list of matters were identified in the ABA's report as being appropriate for inclusion in a code of practice. These were:

- reasonable procedures to deal with, and where possible remove from Australian servers, on-line material which would be Refused Classification under the National Classification Code;
- reasonable age verification procedures aimed at limiting the holding of 'open' on-line accounts to persons over the age of 18 or to persons who are of an age appropriate to receive the information made available to them;
- provision of information to users on products and services which limit access to material considered unsuitable for minors;
- methods of encouraging content providers to display warnings on material which may be unsuitable for children;
- methods of encouraging the labelling of material to be used in conjunction with systems such as PICS;
- provision of information to content providers on legislation which may be relevant in the on-line environment;
- dealings with customers including billing, support services, privacy and credit management;
- complaints handling procedures for breaches of the code; and
- provision of information on the availability and use of procedures for ensuring the authentication of content or source of material.

ABA recommendations on the role that codes of practice might play in relation to illegal material and material considered unsuitable for minors are discussed in detail in chapters 6 and 7 respectively.

Since the release of the ABA report, sectors of the Internet industry have developed a number of draft codes. Organizations which have developed draft codes include the Internet Industry Association of Australia (intiaa), the West Australian Internet Association (WAIA), the Committee of Australian University Directors of Information Technology (CAUDIT) and the

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[38] Australian Broadcasting Authority 1996 *Investigation into the Content of On-line Services: Report to the Minister for Communications and the Arts* 1996 Australian Broadcasting Authority, Sydney http://www.dca.gov.au/aba/invest.htm

Eros Foundation (the association representing the adult entertainment industry in Australia).[39]

The Federal Government has expressed support for the role of codes of practice in the regulatory regime for on-line services in Australia.[40]

The Federal Government's proposals state that there are good commercial reasons for on-line service providers to treat responsibly material available on their services and that for the most part, on-line service providers would meet their obligation by complying with codes of practice and acting quickly to resolve complaints.[41]

Senator Richard Alston, Minister for Communications and the Arts, hovever, has stated:

> The proposed arrangements recognize that on-line service providers were often not in a position to be aware of all of the material transmitted through their services, and cannot be held responsible in every case for material which they have not created.

The Copyright Law Reform Committee (CLRC) is conducting a wide ranging inquiry into the *Copyright Act 1968*. The CLRC is considering the propositions that copyright law should be capable of encompassing new technologies, and that copyright law should not impede opportunities for creators, users and industry to exploit new technologies.[42] The CLRC is due to report to the Commonwealth Minister for Justice in November 1997.

Malaysia

General framework

Malaysia has adopted a substantially self-regulatory approach to Internet regulation. However, the Prime Minister, Dr Mahathir is reported to have stated that 'there should be some international agreement as to what can or cannot go on this free media (Internet) in response to pornographic content'[43]. The main source of regulations applying specifically to Internet services are the Conditions of Service of the two Internet service providers, Joint Advanced Research Integrated Networking (JARING) and Malaysia Telekom Berhad (TMnet).

Supplementing these specific provisions are the package of 'cyberlaws' which relate to information flow and use of the Internet.[44] The subjects covered by these cyberlaws include digital signatures and copyright.

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[39] These draft codes are available on the WWW. See
http://www.intiaa.asn.au/objectives/code_of_prac/codeV2.html (intiaa),
http://www.waia.asn.au/Documents/CodeOfConduct.htm (WAIA),
http://www.planet-sex.com/eros/code.html (Eros Foundation) and
http://www.caudit.edu.au/caudit/codes/index.html (CAUDIT)

[40] See Joint Press Release of the Minister of Communications and the Arts and the Attorney General, 15 July 1997, 'National Framework for On-Line Content Regulation', at http://www.dca.gov.au/mediarel/c8197.html

[41] ibid.

[42] Copyright Law Review Committee: *Copyright Reform, A Consideration of Rationales, Interests and Objectives* (February 1996).

[43] http:/www.geocities.com/Tokyo/2077/masianet.html

[44] These are introduced under 'Laws applying to use of the Internet' later in this section.

JARING conditions of service

Customers of JARING are bound by the JARING Conditions of Service.[45] MIMOS Berhad may terminate the membership of JARING members who breach the conditions of service.

As well as a number of administrative regulations, the conditions set out some provisions on content and access including:

- members shall not use the JARING network for any activities not allowed under any law of Malaysia;
- members shall not use the JARING network for distributing unsolicited commercial advertisements; and
- members shall not provide Internet services using JARING network to other parties without a written agreement with MIMOS Berhad.

In regard to confidentiality, the conditions specify that MIMOS Berhad will do its best to safeguard information passing through the JARING network from any unauthorized access, but that MIMOS Berhad does not guarantee the confidentiality of information, and members should take appropriate action to safeguard their own information.

TMnet terms and conditions for dial-up access service

Customers of TMnet are bound by the TMnet Terms and Conditions for Dial-up Access Service (TMnet conditions). If the customer fails to comply with these conditions, then TMnet may terminate the service. The TMnet conditions list the responsibilities of the customer, and prohibited uses. The responsibilities of the customer include:

- compliance with all notices or instructions given by TMnet from time to time in respect of the use of the service;
- responsibility for obtaining, at the customer's own cost, all licences, permits, consents, approvals, and intellectual property or other rights as may be required for using the service;
- compliance with the rules of any network which the customer accesses through the Service; and
- responsibility for all information retrieved, stored and transmitted by the customer through the use of the service.

The TMnet conditions also require that the customer does not apply the service to a prohibited use. The relevant conditions bind the customer:

- to comply with and not to contravene all applicable laws of Malaysia relating to the service;
- not to use the service for any unlawful purpose including and without limitation criminal purposes;
- not to use the service to send or receive any message which is offensive on moral, religious,

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[45] At http://www.jaring.my/jaring/faq/rules.html (5 June 1995).

racial or political grounds or of any anxiety to any person;

- not to introduce any computer virus to TMnet's system;
- not to infringe any intellectual property rights of any person;
- not to gain unauthorized access to any computer system connected to the Internet or any information regarded as private by other persons; and
- not to share the service with any person without the prior written approval of TMnet and shall use the service only for the purpose for which it is subscribed.

In November 1996 the Malaysian Government announced plans to introduce comprehensive laws governing information flow on and use of the Internet.[46] As noted, these laws are commonly referred to by the Malaysian Government and commentators as 'cyberlaws'. The cyberlaws have been described as 'commerce enabling laws and societal laws',[47] which are aimed to encourage use of Malaysia's Multimedia Super Corridor (MSC) project.

The cyberlaws are proposed to be implemented during 1997 along with the Multimedia Convergence Act.[48]

Two of the cyberlaws were introduced into the Malaysian Parliament on 26 March 1997: the *Computer Crimes Bill 1997* and the *Digital Signature Bill 1997*. The other cyberlaws which are expected to be tabled some time in 1997 in the Malaysian Parliament are the Telemedicine Bill, the Copyright (Amendment) Bill, the Electronic Government Bill and the Multimedia Convergence Bill.

Codes of practice

Codes of practice have not been proposed as part the on-line regulatory regime currently operating in Malaysia at this time. Instead, Malaysia relies on the conditions of service of the Internet service providers JARING and TMnet.

Singapore

General framework

Singapore has been active in encouraging the use and development of the Internet. From a regulatory perspective, the Singapore Broadcasting Authority is guided by three philosophies: public education, industry self-regulation, and community involvement. The use of the medium

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[46] See http://www.news.com/News/Item/0,4,5101,00.html

[47] Speech by The Prime Minister of Malaysia, The Hon. Dato Seri Dr. Mahathir Bin Mohamad, UCLA, Los Angeles, 14 January 1997. Also described as such by the Deputy Prime Minister of Malaysia in a report in the New Straits Times, 'Computer Crimes, Digital Signature Bills Tabled in Dewan Rakyat', 26 March 1997.

[48] Reported at http://www.mdc.com.my/msc/infras/laws. Of the *Multimedia Convergence Bill*, the Prime Minister of Malaysia has stated: 'We are developing a Multimedia Convergence Act that will merge and update our telecommunications, broadcasting and information laws to reflect today's rapid technological convergence' (Speech by the Prime Minister of Malaysia at a luncheon attended by Beverly Hills Entertainment and Community leaders, Beverly Hills Hotel, Los Angeles, 14 January 1997 http://www.smpke.jpm.my/gn-data/ucapan.pm/1997/970114.htm).

is encouraged at all levels of society.[49]

Singapore has relied on an existing legislative framework to develop a regulatory scheme for on-line services. The *Singapore Broadcasting Authority Act 1994* (SBA Act) makes it the statutory duty of the Singapore Broadcasting Authority (SBA) to ensure that nothing is included in any broadcasting service which is against public interest or order, national harmony or which offends against good taste or decency.[50] The term 'broadcasting service' is defined in the SBA Act to extend to services provided on the Internet and all electronic public communications are to be regulated as broadcasting services.[51]

Under section 21 of the SBA Act,[52] the SBA issued *The Class Licence Notification 1996* which came into effect on 15 July 1996. This established a class licence scheme for Internet service providers and content providers, regulating the conduct of members of the industry and the content allowed on-line. The aim of the class licence scheme is to impose minimum standards through an automatic licensing framework.[53]

The class licence scheme aims to encourage responsible use of the Internet whilst facilitating its healthy development in Singapore.[54] Under the class licence scheme, service providers and content providers are automatically deemed to be licensed, so that it is not necessary for them to apply individually to the SBA for a licence. Subsection 21(2) of the SBA Act allows the SBA to specify licence conditions for class licences. Class licensees must comply with such conditions. If the SBA finds that a breach of a class licence condition has occurred, it may suspend or cancel the application of the class licence in respect of the class licensee, or impose a fine.[55]

The class licensing scheme was developed by the SBA following consultation with the industry, including the three Internet access service providers (Cyberway, Pacific Internet and Singnet) and the National Computer Board.

The class licensing scheme's focus is on the provision of Internet services to the public. The

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[49] Singapore Broadcasting Authority, March 1997.

[50] *Singapore Broadcasting Authority Act 1994*, paragraph 6(2)(c).

[51] The definition of 'broadcasting service' is in subsection 2(1) of the Singapore Broadcasting Authority Act. It is defined as:

> ...a service whereby signs or signals transmitted, whether or not encrypted, comprise -
> (a) any program capable of being received, or received and displayed, as visual images, whether moving or still;
> (b) any sound program for reception; or
> (c) any program, being a combination of both visual image (whether moving or still) and sound for reception or reception and display,
> by persons having equipment appropriate for receiving, or receiving and displaying, as the case may be, that service, irrespective of the means of delivery of that service'.

[52] Section 21 of the Singapore Broadcasting Authority Act empowers the SBA to determine 'a class licence, being a broadcasting licence, for the provision of such subscription broadcasting services and other licensable broadcasting services as the Authority may specify'.

[53] See 'Singapore Broadcasting Authority and the Internet' at http://www.sba.gov.sg/netreg.htm#requirements

[54] SBA news release 11 July 1996: 'SBA safeguards community interest through internet regulation', at http://www.gov.sg/sba/netreg/regrel.htm

[55] See section 24 of the Singapore Broadcasting Authority Act.

SBA has advised that its interest is in communications which may potentially have a mass impact such as the WWW, particularly sites which distribute or tout pornography in Singapore.[56]

Organizations which provide Internet access to their employees for the sole purposes of their business operations are excluded from the regulatory framework. In addition, the SBA has taken the view that private communications between two individuals or parties do not fall within its ambit and accordingly e-mail services are declared to be outside the class licence.

The SBA has advised that it does not intend to over-regulate the Internet and that the class licensing scheme aims to encourage minimum standards of conduct and to encourage responsible use of the Internet.[57]

A National IT Committee has been established in Singapore to provide policy guidance and direction in the area of information technology. One of the key initiatives was the formation of an Electronic Commerce Hotbed Committee to look into key policy, technical and legal requirements, including digital signatures and intellectual property rights, necessary for electronic commerce to flourish. The Committee is scheduled to complete its findings by the end of 1997.

A National Internet Advisory Committee was also established in September 1996 to advise the Singapore Government on how to 'maintain a progressive, healthy and conducive environment for Internet development'. Comprising leading members of the business, legal, education and research communities, the committee provides the Government with feedback in relation to key policies and regulations.[58]

Registration

It is a condition of the class licence that all Internet service providers register with the SBA.

Certain Internet content providers are also required to be registered, pursuant to the class licence conditions. These are those content providers which provide political or religious content on the WWW, such as political parties. Once registered, political and religious organizations may conduct discussions on the Internet, provided that they do not contravene the laws of Singapore.

Content providers

Internet content providers are defined under the class licence as, 'any person who provides information on the World Wide Web including Web publishers and Web server administrators'.[59]

However, the SBA has advised that its intention is for regulation of Internet content providers to focus on groups which provide content on an organized rather than on an individual basis. Consequently, individuals who put up Web pages are exempt from the class licence scheme unless they operate their Web pages for business, political or religious purposes.

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[56] Singapore Broadcasting Authority, March 1997.

[57] See section 24 of the Singapore Broadcasting Authority Act.

[58] See 'Singapore Broadcasting Authority and the Internet' at http://www.sba.gov.sg/netreg/govgaz/code.htm.

[59] See at Annex B to SBA news release 11 July 1996, http://www.sba.gov.sg/netreg/annexb.htm.

Internet content providers are required to comply with the Internet Code of Practice outlined below. The primary responsibility for content lies with the content creator. Web publishers and server administrators are not required to monitor the Internet nor pre-censor content. However, they are required to remove 'harmful' content if directed by the SBA. An illustration of what may be regarded as harmful content can be seen in the SBA's Internet Content Guidelines, discussed in more detail in chapter 6.[60]

Conditions of class licence

The conditions of the class licence were published on 11 July 1996 by the SBA.[61]

The conditions of the class licence applying to licensees, including Internet service providers and certain Internet content providers, include:

- to comply at all times with the laws of Singapore;
- to assist the SBA with investigations into any breach of its licence conditions or any alleged violation of any law committed by the licensee or any other person;
- to produce such information, records, documents data or other materials as may be required by the SBA for the purpose of its investigations;
- to keep records relating to the provision of its service;
- to use its best efforts to ensure that its service complies with such codes of practice as the SBA may issue from time to time; and
- to use its best efforts to ensure that its service is not used for any purpose and not contain any programme that is against the public interest, public order or national harmony, or offends against good taste or decency.

The conditions of the class licence also require licensed Internet content providers who provide a Web page to which other persons are invited to contribute or post programmes, to use their best efforts to ensure that programmes conform with the applicable codes of practice as issued by the SBA from time to time.

If the SBA informs a licensee that material contained in a programme included within the licensee's service is contrary to a code of practice applicable to the licensee, or that the material is against the public interest, public order or national harmony, or offends good taste or decency, the conditions of the class licence provide that the licensee is required to remove or prohibit the broadcast of the whole or part of the programme.

Codes of practice

The SBA has advised that its approach to regulation of the Internet is to encourage self-regulation and judgment. Accordingly, the SBA has issued an Internet Code of Practice, pursuant to its powers under the SBA Act,[62] which came into effect on 15 July 1996. All

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[60] See at Annex C to SBA news release 11 July 1996, http://www.sba.gov.sg/netreg/annexc.htm

[61] SBA news release 11 July 1996: 'SBA safeguards community interest through internet regulation', op cit.

[62] Subsection 21(4) of the Singapore Broadcasting Authority Act states that the SBA may impose a condition on a class licence requiring the licensee to comply with a Code of Practice that is applicable to the licensee. The

Internet service providers and Internet content providers licensed under the class licence are required to comply with the Internet Code of Practice.

The Internet Code of Practice is drawn from existing Singaporean laws such as the *Sedition Act 1964* and the *Maintenance of Religious Harmony Act 1992* and is intended to serve as an expression of societal values in Singapore. Consequently, the Internet Code of Practice identifies content which may undermine public security, racial and religious harmony or public morality. It provides the industry with broad 'markers' of their responsibilities as it is impossible to precisely define every instance of offensive content.[63]

Licensees must use their best efforts to ensure that nothing is included in any programme on the Internet which is against the public interest, public order, national harmony or which offends against good taste or decency. In particular, a number of types of Internet content are not to be allowed. These include the following:

- content which infringes public security and national defence;
- content which may disrupt racial and religious harmony; and
- content which offends against public morals.[64]

Further details regarding these areas of Internet content are outlined in chapter 6.

The SBA has authority to impose sanctions on licensees who contravene the Internet Code of Practice, as compliance with the code is a condition of the class licence.[65] The SBA will consider the degree and context in which any allegedly harmful material is found. If the alleged harmful material is incidental to the main body of material or is presented in good faith, for example nudity used for news or art, scientific or medical purposes, rather than in a gratuitous or sensationalized context, the SBA has advised that it will not take issue with the material.[66]

In the event of a breach, local sites carrying harmful content will be directed to remove the offending material. Depending on the severity of the offence, the SBA has advised that those who breach the class licence may be fined and or have their licence terminated. In addition, all licensees continue to be subject to the existing laws of Singapore, both civil and criminal.

Service providers

Internet access service providers and localized and non-localized Internet services resellers in Singapore are encouraged to self-regulate against 'harmful content' through the use of Acceptable Use Policies. Acceptable Use Policies outline the practices which are to be adopted by users and which are in accordance with the Internet Code of Practice summarized above.

When directed by the SBA, Internet service providers are required to limit access to 'undesirable' sites, such as pornographic Web pages, and to take steps to remove harmful

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SBA may issue Codes of Practice relating to broadcast standards pursuant to section 18 of the SBA Act. See the SBA Internet Code of Practice at http://www.sba.gov.sg/netreg/govgaz/code.htm

[63] See 'Singapore Broadcasting Authority and the Internet' at http://www.sba.gov.sg/netreg/regrel.htm

[64] See the SBA's Internet Code of Practice information at http://www.sba.gov.sg/netreg/govgaz/code.htm

[65] See section 24, Singapore Broadcasting Authority Act.

[66] See 'Singapore Broadcasting Authority and the Internet', op cit.

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content. At the time of writing the ABA understands that a few dozen pornographic sites have been identified by the SBA. Internet service providers are not required to actively monitor the Internet or its users.[67]

The SBA encourages the provision of newsgroups as a useful source of information. Under the regulatory regime service providers in Singapore are to subscribe to newsgroups which accord with the code of practice but are not required to monitor or pre-censor individual postings.[68]

United Kingdom

General approach to regulation

The general approach to on-line services regulation in the UK is based on the existing legislative regime for content which aims to be technology neutral. The application of the existing legislative regime provided an incentive for service providers in the UK to develop and comply with a self regulatory framework. This self regulatory framework was announced in September 1996, the central tenet of which is the 'R3 Safety-Net proposal' and the key body for this proposal is the Internet Watch Foundation.

The R3 Safety-Net was adopted and endorsed by the Internet Service Providers Association (ISPA-UK), London Internet Exchange (LINX) and the Safety-Net Foundation (now the Internet Watch Foundation).[69] The proposal was developed in discussions with industry facilitated by the UK Department of Trade and Industry, the Metropolitan Police[70] and the Home Office.

Internet service providers in the UK who choose not to comply with the self-regulatory scheme by removing illegal material once informed of its existence may be exposed to prosecution under the normal processes of law (pursuant to, for example, the *Obscene Publications Act 1959* or the *Protection of Children Act 1978).*[71] In its endorsement of the R3 Safety-Net proposal, the UK Department of Trade and Industry stated:

> The basis for these proposals is that existing law applies on-line as it does to other media. Internet service providers have a liability in law for material which they host on their servers, and it is therefore in their best interests to ensure that illegal material is removed. Service providers who cooperate with the proposals will reduce their risk of prosecution, by demonstrating that they have done all that can reasonably be expected to comply with the law.[72]

Service providers are encouraged to support and adopt the R3 Safety-Net measures. It incorporates three key principles.

1. Rating - encouraging service providers to use rating systems or labels on Web sites and newsgroups which are compatible with the Platform for Internet Content Selection (PICS).

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[67] ibid.

[68] ibid.

[69] The Internet Watch Foundation is an independent organisation which aims to implement the main proposals of the R-3 Safety-Net initiative. See http://www.internetwatch.org.uk

[70] The Metropolitan Police provides police services for the greater London area.

[71] The relevant provisions of these Acts are outlined in chapter 6.

[72] See http://dtiinfo1.dti.gov.uk/hol/

2. Reporting - establishing a hotline for complaints about illegal material which users find on the Internet. The hotline has been established by the Internet Watch Foundation.

3. Responsibility - content providers should take responsibility for rating their own pages and service providers should take responsibility for removing content brought to their attention which is illegal or is persistently and deliberately misrated.

The initial focus of the R3 Safety-Net proposal is the removal of child pornography from the Internet. It is envisaged that procedures to deal with other types of illegal material will follow.

The R3 Safety-Net proposal also seeks to develop policies on tracing originators of material placed on the Internet because completely untraceable accounts may be abused in order to commit crime. It has recommended that service providers and anonymous servers, e.g. re-mailers, record details of users identity so that these can be made available to the police, if they are legally requested to do so, in connection with the investigation of a serious crime.[73]

The R3 Safety-Net proposal expressly states that it is open to modification and recommends that service providers continue to work, through their trade associations, with the Internet Watch Foundation, the police, Governments and other interested groups.

It should also be noted that section 46 of the *Broadcasting Act 1990* empowers the Independent Television Commission (ITC) to licence and regulate programme services which are conveyed by means of a telecommunication system.[74] On this basis the ITC's powers may extend to certain types of programmes on the Internet. Under the Broadcasting Act, the ITC must do all that it can to ensure that every licensed service complies with the requirements in section 6, which include:

> (a) that nothing is included in its programmes which offends against good taste or decency or is likely to encourage or incite to crime or lead to disorder or to be offensive to public feeling;
> (b) that due impartiality is preserved on the part of the person providing the service as respects matters of political or industrial controversy or relating to current public policy;
> (c) that due responsibility is exercised with respect to the content of any of its programmes which are religious programmes, and that in particular any such programmes do not involve -
>
> > (i) any improper exploitation of any susceptibilities of those watching the programmes, or
> > (ii) any abusive treatment of the religious views and beliefs of those belonging to a particular religion or religious denomination ...

The ABA understands that the ITC is presently considering the implications of these provisions for on-line services in the UK.

As part of the European Union the UK is also affected by any directives which may be issued by the European Parliament. In this regard it should be noted that the European Commission has been active in the on-line area and has produced two papers relevant to these matters.

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[73] Department of Industry & Trade comment on draft pilot study, dated 27 March 1996.

[74] Under subsection 46(1), a 'licensable program service' means a service consisting in the provision by any person of 'relevant programs' with a view to their being conveyed by means of a telecommunication system ... whether (that system is run by the person providing the programs or some other person) and whether the programs are to be conveyed ... for simultaneous reception or for reception at different times in response to requests made by different users of the service. Exceptions to subsection 46(1) are in subsection 46(2).

namely the *Green Paper on the Protection of Minors and Human Dignity in Audiovisual and Information Services*[75] and the European Commission Communication on *Illegal and Harmful Content on the Internet.*[76]

Codes of practice

As part of the R3 Safety-Net initiative, the Internet Service Providers Association of the United Kingdom (ISPA-UK), a trade association comprising about fifty service providers, adopted a code of practice in May 1996. The code of practice is intended to be a starting point from which a comprehensive code of practice can be developed to meet the main concerns of parents, the Government and ISPA-UK members, without unduly restricting the rights of the user.

The ISPA code is based on three core principles: that ISPA encourages the emergence of enabling technologies, which give the consumer, or parent, choice on the content they receive; that ISPA considers the provider of content as being responsible for ensuring that content is legal, and suitable for the intended audience; and that ISPA believes that responsible users will not object to restricting certain language or images to defined newsgroups or Web sites which are appropriately identified. To this end ISPA would like to see the formulation of a defined set of self certification principles by which content providers may flag the nature of their articles to possible recipients and would facilitate the development of software to filter out certain categories of article based on user preference.[77]

After a period in which the code operated voluntarily it is now compulsory for all ISPA members to comply with the code.

The ISPA code includes the following provisions:

1.1 Legality

Members shall use their reasonable endeavours to ensure the following:

1.1.1 Services and promotional material do not contain anything which is in the breach of the law, nor omit anything which the law requires.

1.1.2 Members, their services and promotional material do not encourage anything which is in any way unlawful.

1.2 Decency

Members shall use their reasonable endeavours to ensure the following:

1.2.1 Services and promotional material do not contain material inciting violence, sadism, cruelty, or racial hatred.

1.2.2 Services and promotional material are not used to promote or facilitate prostitution.

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[75] European Commission *Green Paper on the Protection of Minors and Human Dignity in Audiovisual and Information Services 1996* http://www2.echo.lu/legal/en/internet/content/gpen-toc.html (http://europa.eu.int/en/record/green/gp9610/protec.htm - Word version).

[76] European Commission *Illegal and Harmful Content on the Internet: Communication to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions 1996* http://www2.echo.lu/legal/en/internet/content/communic.html

[77] Described by ISPA as most commonly the end user who posts a news article or a Web page. See http://www.ispa.org.uk/codenew.html

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The ISPA code also includes provisions relating to data protection, fair trading and complaint processes.

Summary table

Table 2: Four country comparison: approach to regulation of on-line services

	Australia	Malaysia	Singapore	UK
General approach	ABA report recommended a substantially self-regulatory framework based on codes of practice for service providers. The Government has supported this approach in the regulatory framework for on-line services announced on 15 July 1997	The Government has indicated support for a self regulatory approach to Internet regulation.	SBA oversees class licence scheme and encourages industry self-regulation.	A self-regulatory scheme specific to on-line services has been developed.
Codes of practice	Recommended by ABA report. A number of draft codes have been developed by industry.	Codes of practice not proposed. However, JARING Conditions of Service and TMnet Terms and Conditions for Service are in place.	Code of practice issued under SBA Act applies to all relevant service and content providers.	ISPA code of practice developed for members. Codes operate within context of the Safety-Net Proposal.

6 Illegal material

This chapter deals with material which is subject to some legal restrictions concerning its possession, transmission or access in the on-line environment. This is to be distinguished from material which is generally restricted so that is not accessible by children or minors, but can be legally obtained by adults.

For the purposes of this study, material which may be subject to such restrictions in a particular country is referred to as 'illegal material'. The categories of material which are often subject to legal restrictions are outlined below:

- child pornography;
- certain types of sexually explicit material, often referred to as 'obscene' material, material which is considered to be contrary to 'community values' or 'indecent';
- certain categories of violent material;
- certain categories of sexually violent material;
- certain types of sexual or violent material involving non-consensual adults and/or animals;
- material which vilifies on the basis of race, colour or ethnicity and/or incites violence on this basis;
- material which vilifies on the basis of gender or sexual preference;
- material which blasphemes one or more religions;
- material which criticizes the government; and
- material which may disrupt the social cohesion of a country.

All the countries within the pilot study render illegal the material that falls within a number of these categories. Each country has also considered methods of dealing with such material, and those who deal with it in the on-line environment and has adopted or proposed strategies in this regard. These strategies include legislation, codes of practice and reporting mechanisms such as e-mail hotlines.

Australia

Material which may be subject to prohibitions in the on-line environment

In 1996 the Federal and State Ministers responsible for censorship put into place cooperative arrangements regulating certain dealings with publications, films, video and computer games. Under the scheme each State and Territory has complementary legislation, which creates specific criminal offence provisions in relation to certain categories of material.

Although there are some variations in the different jurisdictions, certain dealings with material which is or would be 'Refused Classification' under the National Classification Code and Guidelines, which form part of the scheme, is prohibited in all jurisdictions.

Under the Code and Guidelines, materials will fall within the Refused Classification or 'RC' category if they:

- depict, express or otherwise deal with matters of sex, drug misuse or addiction, crime, cruelty, violence or revolting or abhorrent phenomena in such a way that they offend against the standards of morality, decency and propriety generally accepted by reasonable adults to the extent that they should be classified RC;
- depict in a way that is likely to cause offence to a reasonable adult, a person who is or who looks like a child under 16 (whether or not engaged in sexual activity); or
- promote, incite or instruct in matters of crime or violence.[78]

Some Australian States and Territories rely on existing laws to regulate on-line activities. Other jurisdictions have introduced specific provisions to address on-line services.

In Victoria, section 57 of the *Classification (Publications, Films and Computer Games) (Enforcement) Act 1995* deals with publication or transmission of Objectionable material on the Internet. 'Objectionable material' is defined in section 56 of the Act and includes material which would be refused classification under the National Classification Code and Guidelines.

Section 57(1) of the Victorian Act provides that a 'person must not use an on-line information service to publish or transmit, or make available for transmission, objectionable material'. The penalty for contravention is a fine or two years imprisonment. However, the section does not apply unless the person providing the on-line information service or a telecommunication service creates or knowingly downloads or copies Objectionable material (section 57(3)). This section is designed to protect service providers who have no knowledge of Objectionable content being transmitted via their service. A defence is available if the defendant believed on reasonable grounds that the material was not Objectionable material.

In Western Australia, section 102 of the *Censorship Act 1995* provides that a person must not use a computer service to transmit or obtain material knowing it to be Objectionable. The definition of Objectionable material in the Western Australian Act also includes material which would be refused classification under the National Classification Code and Guidelines, along with some additional categories.[79] However, it is a defence to prosecution that a defendant complied with a code of practice relating to computer services or took all reasonable steps in the circumstances to avoid contravening section 102.[80] It is also a defence available that the article involved is one of recognized literary, artistic or scientific merit or a bona fide medical article transmitted for the public good.[81]

The Northern Territory *Classification of Publications, Film and Computer Games Act 1995* contains similar provisions in section 50Z. The penalty for breach under this Act is $10 000. Under this Act, 'objectionable material' is defined to mean:

(a) a film classified RC, a computer game classified RC or refused publication;
(b) child pornography;

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[78] Office of Film and Literature Classification 1996, *Guidelines for the Classification of Films and Videotapes*, Office of Film and Literature Classification, Sydney, p 14 or http://www.oflc.gov.au/refused.html

[79] *Classification Act 1996* (WA), section 99.

[80] ibid., section 102(3).

[81] ibid, section 101(2).

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(c) an article that promotes crime or violence, or incites or instructs in matters of crime or violence; or

(d) an article that describes or depicts, in a manner that is likely to cause offence to a reasonable adult -

(i) the use of violence or coercion to compel a person to participate in, or submit to, sexual conduct;

(ii) sexual conduct with or on the body of a dead person;

(iii) the use of urine or excrement in association with degrading or dehumanizing conduct or sexual conduct;

(iv) bestiality; or

(v) acts of torture or the infliction of extreme violence or extreme cruelty.[82]

In New South Wales, model offence provisions for on-line services were drafted with the intention that these could be mirrored by other States and Territories of Australia. However, in July 1996 this process was suspended.

It should also be noted that the Federal Attorney General, Mr Daryl William, has recently announced that he will be discussing with State and Territory Governments the possibility of uniform laws regulating the publication and transmission of Objectionable material by on-line creators and users, and the protection of minors from unsuitable material. These laws 'would complement the Commonwealth regulatory framework for on-line service providers' [83]

The publication of 'obscene' material is also an offence under common law in various Australian States and Territories. The definition of obscenity under these laws depends on judicial interpretation. Judges have relied on the tendency of material to 'deprave and corrupt' as an indication of obscenity.[84] Some decisions have relied on 'offensiveness' in the context of general community standards.[85] Certain matters such as child pornography would clearly be considered obscene.

Another important area in respect of which legal restrictions are placed on publications is racial vilification. At the Federal level, section 9 of the *Racial Discrimination Act 1975* makes it unlawful for a person to do 'any act' involving:

> ... a distinction, exclusion, restriction or preference based on race, colour, descent or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of any human right or fundamental freedom in the political, economic, social, cultural or any other field of public life.

Section 17 also makes it unlawful for a person to incite, assist or promote the doing of an act that is prohibited by section 9.

The Racial Discrimination Act also makes it unlawful for a person to do an act, otherwise than

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[82] *Classification of Publications, Film and Computer Games Act 1995* (NT), section 50Z.

[83] See Joint Press Release of the Minister of Communications and the Arts and the Attorney General, 15 July 1997, 'National Framework for On-Line Content Regulation', at http://www.dca.gov.au/mediarel/c8197.html

[84] *R v Hicklin* 3 Law Reports, Queen's Bench 360, *Ex p Collins* (1888) 9 LR (NSW) 497.

[85] *Crowe v Graham* (1968) 121 CLR 375.

in private, if the act is reasonably likely in all the circumstances to offend, insult, humiliate or intimidate another person or a group of people and the act is done because of the race, colour or national or ethnic origin of the other person or of some or all of the people in the group.[86] An act is taken not to be performed in private if it 'causes words, sounds, images or writing to be communicated to the public'.[87]

There are a number of similar laws at State level.[88] For example, the *Anti Discrimination Act 1977* (NSW) provides that:

> It is unlawful for a person, by a public act, to incite hatred towards, serious contempt for, or severe ridicule of, a person or group of persons on the ground of the race of the person or members of the group.

These State and Federal laws do not specifically address material available to or from on-line services or the issue of whether the transmission and distribution of material on the Internet is a 'public act'. The application of these laws to on-line content, including content on the Internet, is yet to be tested in the Australian courts.

Similarly, there are other general provisions in Part II of the *Crimes Act 1914* (Cth) which may be applicable to content to on-line services. For example, section 24C provides:

> Any person who:
>
> (a) engages in or agrees or undertakes to engage in, a seditious enterprise;
>
> (b) conspires with any person to carry out a seditious enterprise; or
>
> (c) counsels, advises or attempts to procure the carrying out of a seditious enterprise; with the intention of causing violence or creating public disorder or a public disturbance, shall be guilty of an indictable offence.[89]

Again, the application of these provisions of the Crimes Act to on-line content has not yet been judicially considered.

The role of the codes of practice

The ABA report recommended that service providers include in codes of practice reasonable procedures to deal with on-line material which is or would be Refused Classification.

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[86] Subsection 18C(1) of the *Racial Discrimination Act 1975*.

[87] Subparagraph 18C(2)(a) of the Racial Discrimination Act.

[88] Section 18F of the Racial Discrimination Act provides that Part IIA of the Act (which contains sections 18B to 18F, and not section 9) is not intended to exclude or limit the concurrent operation of any law of a State or Territory.

[89] The term 'seditious enterprise' is defined in section 24B to mean an enterprise undertaken in order to carry out a seditious intention. It states that seditious words are expressive of a seditious intention. Section 24A defines 'seditious intention' to mean an intention to effect any of the following purposes:

(a) to bring the Sovereign into hatred or contempt;
(d) to excite disaffection against the Government or Constitution of the Commonwealth or against either House of the Parliament of the Commonwealth;
(f) to excite Her Majesty's subjects to attempt to procure the alteration, otherwise than by lawful means, of any matter in the Commonwealth established by law of the Commonwealth; or
(g) to promote feelings of ill-will and hostility between different classes of Her Majesty's subjects os as to endanger the peace, order and good government of the Commonwealth.

It was acknowledged that service providers will often have no knowledge of the material which is accessible through their service unless it is specifically brought to their attention. However, the ABA recommended that the codes include any practical and workable steps which service providers could take if and when they are made aware of the availability of this material. In developing this aspect of the codes, the ABA has recommended that there be close liaison between government and industry.

A number of draft codes have been developed by service providers following the ABA's report, and include requirements that service providers will not knowingly place or allow material to be stored on their servers which would be Refused Classification under the National Classification Code and Guidelines.

Hotlines

The ABA's report supported in principle the establishment of an e-mail hotline to allow Internet users to report any illegal material which they find on-line to an appropriate law enforcement authority and/or to service providers for appropriate action.[90]

Malaysia

Material which may be subject to prohibitions in the on-line environment

Part IV of the *Printing Presses and Publications Act 1984* is entitled 'Control of Undesirable Publications'.[91] If the relevant Minister is satisfied that a publication contains material which is:

> in any manner prejudicial to or likely to be prejudicial to public order, morality, security, or which is likely to alarm public opinion, or which is likely to be contrary to any law or is otherwise prejudicial to or is likely to be prejudicial to public interest or national interest,

then the Minister may prohibit the printing, importation, production, reproduction, publication, sale, issue, circulation, distribution or possession of that publication.[92] It is an offence under the Printing Presses and Publication Act for a person to produce, reproduce or publish a 'prohibited publication' (as determined by the Minister under section 7), unless that person has a 'lawful excuse'.[93]

Under the Malaysian Penal Code it is an offence to deal with 'obscene publications' and 'obscene objects'.[94] Section 292 of the Penal Code prohibits persons from selling, distributing, circulating, exhibiting or possessing any 'obscene publications' (including books, pamphlets, papers, drawings and paintings) or any 'obscene objects'. The Penal Code exempts publications or objects used for bona fide religious purposes.

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[90] Australian Broadcasting Authority 1996, *Investigation into the Content of On-line Services: Report to the Minister for Communications and the Arts*, Australian Broadcasting Authority, Sydney, pp.98-100 or http://www.dca.gov.au/aba/invest.htm.

[91] See at http://www.jaring.my/msia/law/act301.html

[92] Section 7(1) of Pt IV of the *Printing Presses and Publications Act 1984* ibid.

[93] Subsection 8(2) of the Printing Presses and Publications Act op. cit.

[94] See at http://www.jaring.my/msia/law/pcode.html. The part of the Penal Code which defines 'obscene' was not available on-line.

Whilst the Printing Presses and Publications Act and the Penal Code do not expressly refer to on-line services, they may apply to material transmitted in this manner.

The laws governing sedition in Malaysia are contained in the *Sedition Act 1948*. All of the offences are based on the meaning of "seditious tendency" which is defined in section 3(1)(a) to (f) of the Sedition Act. A seditious tendency includes a tendency to 'bring into hatred or contempt or to excite disaffection against any Ruler or against any Government' (section 3(1)(a)) or to 'promote feelings of ill-will and hostility between different races or classes of the population of Malaysia' (section 3(1)(e)). The various offences are outlined in section 4 of the Act and include an offence for any person to print, publish or distribute any seditious publication (section 4). However, there are a number of defences available under the Act in which an act, speech or publication is not necessarily deemed to have a seditious tendency (section (3(2)). The question of whether these provisions apply to publications on the Internet has not been judicially determined.

The JARING Terms and Conditions of Service provide that members shall not use the JARING network for any activities not allowed under any law of Malaysia. Similarly, the TMnet Terms and Conditions for Dial Up Access Service bind their customers to comply with and not to contravene the applicable laws of Malaysia relating to the service. Each of the Malaysian Internet service providers may terminate the membership of customers who breach any of the conditions of service.

The role of codes of practice

Codes of practice are not part of the regulatory regime in Malaysia at this time.

Hotline

The Malaysian Ministry of Education has advised the ABA that they have recently established two e-mail hotlines for users to report on any illegal activity. One is for reporting any illegal activity (abuse@jaring.my) and the other is for reporting on any security related illegal activity (mycert@jaring.my).[95]

Singapore

Material which may be subject to prohibitions in the on-line environment

The Internet Content Guidelines, which operate in conjunction with the SBA Class Licence Scheme, discussed in chapter 5, list a range of content which is subject to prohibitions in Singapore. As the Internet Content Guidelines aim to reflect existing Singaporean legislation, various matters prohibited by the legislation are also prohibited under the Content Guidelines. The Internet Content Guidelines provide as follows:

> The following Internet contents should not be allowed:
>
> **Public Security and National Defence**
>
> a. Contents which jeopardize public security or national defence.
> b. Contents which undermine the public confidence in the administration of justice.

[95] Letter for Malaysian Ministry of Education to ABA dated 9 July 1997.

c. Contents which present information or events in such a way that alarms or misleads all or any part of the public.

d. Contents which tend to bring the Government into hatred or contempt, or which excite disaffection against the Government.

Racial and Religious Harmony

a. Contents which denigrate or satirize any racial or religious group.

b. Contents which bring any race or religion into hatred or resentment.

c. Contents which promote religious deviations or occult practices such as Satanism.

Public Morals

a. Contents which are pornographic or otherwise obscene.

b. Contents which propagate permissiveness or promiscuity.

c. Contents which depict or propagate gross exploitation of violence, nudity, sex or horror.

d. Contents which depict or propagate sexual perversions such as homosexuality, lesbianism, and paedophilia.[96]

Laws applying to illegal material on-line

As outlined in chapter 5, the class licensing scheme established by the SBA is intended to operate in conjunction with industry self-regulation. The existence of the class licensing scheme is intended by the SBA to encourage responsible use of the Internet.

The conditions of the class licence issued by the SBA require class licensees (including Internet service providers and certain Internet content providers) to comply with the laws of Singapore at all times. Internet service providers are also required to remove the whole or any part of a programme included in its service if the SBA has informed the licensee that the broadcast of the whole or part of the programme is contrary to the Internet Code of Practice, or that the broadcast is against the public interest, public order or national harmony or offends against good taste or decency. Failure to comply could result in the SBA suspending or cancelling the application of the class licence in respect of the class licensee, or requiring the class licensee to pay a fine.

The role of codes of practice

The Internet Code of Practice issued by the SBA under its Class Licence Scheme on 15 July 1996 includes a list of prohibited content which mirrors the prohibited content listed in the Internet Content Guidelines. These are intended to be a statement of principle of Singaporean values.

Hotline

In its news release of 11 July 1996 announcing the launch of the Class Licence Scheme (11 July 1996), the SBA welcomed public feedback on 'Objectionable content on the Internet'. Members of the public are able to provide feedback in three ways:

- by writing to the SBA;

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[96] At http://www.sba.gov.sg/netreg/annexc.htm See also *SBA Safeguards Community Interest Through Internet Regulation*, news release of Singapore Broadcasting Authority, issued 11 July 1996, http://www.gov.sg/sba/netreg/regrel.htm.

- by calling a toll-free hotline; and
- by posting their views on the SBA homepage.

Feedback may also be directed to an independent National Internet Advisory Committee which will collate feedback and make recommendations to the Government.

United Kingdom

Material which may be subject to prohibitions in the on-line environment

There are a number of laws which may apply to content in the on-line environment in the United Kingdom.

The Obscene Publications Acts of 1959 and 1964 make it an offence to publish obscene material.[97] The Acts define 'obscene' as 'tending to deprave and corrupt persons likely to read, see or hear the material'. In prosecutions under these Acts, the determination of what constitutes 'obscene' material will rest with the jury. The definition of 'publication' includes the distribution and circulation of material, and accordingly these Acts may apply to the on-line environment. Prosecutions in the 'off-line' environment have involved pornography and publications which encourage the use of drugs.[98] Depictions of non-sexual violence may also be the subject of prosecution.[99] A defence is available to publishers and distributors of obscene material if they have not examined the article published and had no reasonable cause to suspect that the articles were of an illegal nature.[100] However, once they are made aware of the existence of such material, failure to remove it may give rise to prosecution.[101]

The *Protection of Children Act 1978* makes it an offence to distribute, or to possess with a view to distribution, indecent photographs of children under 16. The word 'indecent' is given its ordinary dictionary meaning. As in the Obscene Publications Acts a defence is also available to distributors who did not see the work and/or did not know or have cause to suspect it to be indecent, but this defence may not be available if notice of the work has been received.

On 3 October 1996 the Court of Appeal held that images held in digital form on a computer connected to the Internet fell within the scope of the Protection of Children Act and the Obscene Publications Acts (*R v Fellows; R v Arnold*).[102] There have also been recent reports that as a part of Operation Starburst, an international investigation of a paedophile ring thought to be u the Internet to distribute graphic pictures of child pornography, several British men were arrested and prosecuted for transmitting material on the Internet.[103]

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[97] See *Final Report of the Internet Law & Policy Forum Working Group on Content Blocking* (1997) See http://www.ilpf.org/work/content/content.htm

[98] *Calder v Powell* [1965] 1 QB 509 at p.515; *R v Skirving* [1985].

[99] *DPP v A & B Chewing Gum* [1968] 1 QB 119; *R v Calder & Boyars Ltd* [1969] 1 QB 151

[100] See *Final Report of the Internet Law & Policy Forum Working Group on Content Blocking* (1997) op cit

[101] Advice from the UK Department of Trade & Industry

[102] *Final Report of the Working Group on Content Blocking* (1997) http://www.ilpf.org/work/content/content.htm

[103] See http://www.leeds.ac.uk/law/pgs/yaman/child.htm (18 November 1996).

Under the *Public Order Act 1986* it is an offence to use threatening, abusive or insulting words or behaviour, or display any written material which is threatening, abusive or insulting with the intention of stirring up racial hatred. This offence may be committed in a public or private place. It is also an offence to publish or distribute written material which is threatening, abusive or insulting with the intention of inciting racial hatred.

This provision applies to publication or distribution of material to the public or a section of the public. These provisions do not specifically address on-line services and the ABA understands that it has not yet been judicially determined whether they will apply to the transmission of material on the Internet.

The role of codes of practice/industry proposals

The R3 Safety-Net proposal identified a number of mechanisms for dealing with illegal material on the Internet, and in particular child pornography. As discussed in chapter 5, the Internet Watch Foundation was established following the adoption of the Safety-Net proposal in September 1996. The Internet Watch Foundation aims to encourage service providers to adopt responsible policies concerning the placement of material on the Internet, the tracing of originators of material which has been identified as illegal and the removal of child pornography which is found to be stored on servers within the UK.[104] To achieve these goals, the Internet Watch Foundation has also established an e-mail hotline service, discussed below.

As part of the industry initiative the Internet service providers Association of the United Kingdom (ISPA-UK) has drafted a code of practice which places primary responsibility on content providers to ensure that material is legal. Members of ISPA-UK are required to use their reasonable endeavours to ensure that illegal material is not placed on-line. Members who repeatedly breach the terms of the code may be expelled from the Association.

Hotline

The Internet Watch Foundation has established a hotline service to accept complaints about publicly accessible material believed to be illegal. The priority of the service is child pornography. Complaints may be lodged via telephone, mail, e-mail or facsimile.[105] In response to complaints, the Foundation will produce a 'legality rating' for individual newsgroup articles or Web pages. If material is found to be illegal under UK law then details about the complaint are forwarded to participating service providers and other appropriate bodies in accordance with agreed procedures.

In the case of illegal material which originated within the UK, the Internet Watch Foundation requests that relevant Internet service providers attempt to trace the content provider, inform the authors of the position under UK law, and request that the content provider remove the offending material. If cooperation is not forthcoming, the Foundation will request that the relevant service provider remove the Web site or relevant Usenet item which contains the illegal material which is otherwise illegal. Details are also passed on to the Police and the National Criminal Intelligence Service (NCIS). If a service provider has been notified of the presence of illegal material but does not take appropriate action to deal with it, the service

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[104] http://www.ispa.org.uk/safetypa.html

[105] See http://www.internetwatch.org.uk/hotline

provider may be prosecuted.[106]

If the material originates outside the UK, the Foundation will pass available details to the foreign service provider, where they can be identified, and to NCIS, who will liaise with the police force in the appropriate jurisdiction.[107]

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[106] See http://www.internetwatch.org.uk/hotline. See also *Obscene Publications Acts 1959* and *1964 Protection of Children Act 1978*.

[107] See http://www.internetwatch.org.uk/hotline.

Summary table

Table 3: Four country comparison: illegal material

	Australia	Malaysia	Singapore	UK
Material which may be illegal on the Internet	'Obscene' material at common law. Material which would be 'Refused Classification' under National Classification Code or is otherwise illegal under State or Territory legislation.	Undesirable publications under the *Printing Presses and Publications Act 1984*.	Material which would be in breach of the Content guidelines under the Class Licensing Scheme.	Obscene and other prohibited material under common law, the Obscenity Acts 1959 and 1964 and the *Child Protection Act 1978*.
Codes of practice contain procedures for dealing with illegal content	The ABA report recommended that codes of practice include procedures to deal with illegal material. The draft codes include provisions of this nature.	JARING Conditions of Service provide that members shall not use Internet for any activities not allowed under any existing law.	Code of practice issued by SBA include content rules.	Internet Watch Foundation has developed policies to deal with illegal content once it has been identified. ISPA - UK has developed a code of practice for its members.
Hotline	ABA report supported in principle the establishment of e-mail hotline.	Two hotlines have been established - one for reporting illegal activity, the other for security related illegal activity.	Public can provide feedback on objectionable material by writing, telephoning or posting views to SBA homepage.	Internet Watch Foundation hotline accepts complaints from public via phone, mail, e-mail or fax.

7 Protecting children on the Internet

In addition to dealing with illegal content on the Internet, concerns have been expressed in many countries about the type of content which in traditional media may be legally obtained by adults, but which is not considered suitable for children. Material in this category often includes material of a sexual or violent nature, along with material which contains adult concepts. A number of strategies have been adopted in traditional media to limit children's access to unsuitable material, ranging from age restrictions on material which can be purchased or viewed in a public place to time zone classifications which restrict the type of programmes which can be screened on television at certain times. Each of the countries in the study has recognized the importance of protecting children from Internet content which may be unsuitable for them and has identified strategies to provide this protection.

Australia

In its investigation into the content of on-line services the ABA was required to consider strategies that would protect children from unsuitable material on the Internet. The ABA reached the view that the global, interactive nature of the Internet required the adoption of new strategies for the protection of children in this environment. It also acknowledged that a significant proportion of Internet content is sourced from outside Australia, and that the most effective controls can be applied by the end users.

Filter software and content labelling

The ABA report recognized that whilst parental or teacher supervision is the probably the most effective way of managing children's access to Internet content, direct supervision of children is not always possible. The ABA investigated the range of software products which have been developed for use on computers in the home and in schools in response to the need for parents, teachers and supervisors to filter out or block Internet content which they do not consider suitable for minors in their care. A wide range of filter software products was identified, including Net Nanny, Surf Watch, CyberSitter and CyberPatrol.

The ABA report recommended that information about filter software products be part of any community education campaign about on-line services. The ABA also recommended that service providers provide subscribers with information about filter software products to assist parents and others to make informed choices about managing children's use of these services.

The use of labelling schemes which are compatible with the Platform for Internet Content Selection (PICS) was also given detailed consideration in the ABA's report. While recognizing that these labelling schemes might have many purposes, the protection of children from unsuitable material was seen as one of the most important uses.

The ABA recommended that an On-Line Labelling Task Force be established to consider the issues of content labelling for Australian content providers and users. The ABA also recommended that the scheme be compatible with PICS or any superior standards which might be developed, and that a primary objective in developing the scheme should be consistency with international ratings developments.

Since that time the ABA has been active in promoting discussion about the opportunities

presented by labelling schemes as a tool for parents to protect minors in the on-line environment. The ABA is also particularly interested in examining the ways in which descriptive labelling schemes, such as that developed by the Recreational Software Advisory Council, a not-for-profit organization based in the United States of America, might be used to meet the different needs and values of the international community.

In July 1997 the ABA joined with four other organizations: the Internet Watch Foundation in the UK, the ECO Forum, an industry association in Germany; Childnet International; and the Recreational Software Advisory Council, to establish an international working group on content rating. The group aims to establish a framework to:

- assess the current state of PICS, RSACi and the Internet Content Rating for Europe (INCORE) project;
- develop a model for an international rating of content which takes account of the system developed by the Recreational Software Advisory Council for the Internet (RSACi); and
- establish a process of consultation and dissemination with a wider reference group.

The first formal meeting of the group is scheduled for late September 1997.

Other strategies

In the ABA's report it was noted that that many Internet sites containing material of a sexual nature was accompanied by warnings or statements indicating that the site about to be accessed contained material which may not be suitable for children or which may offend some people. This was particularly the case with the World Wide Web. The ABA recommended that content providers be encouraged to include warnings on sites which may not be suitable for children.

In seeking to maximize the use of filter software and labelling products as a tool to protect minors in on-line environment the ABA recommended that holders of open Internet accounts should be over the age of 18 years. This is not aimed at preventing children from accessing the Internet but rather at ensuring that the responsibility for Internet use by children devolves to parents and adults who should also be informed about the best ways to manage children's use of on-line services.

The report noted that it would be appropriate to exempt educational institutions where procedures for supervision were usually in place. It was also recommended that exemptions should apply to on-line services which were specifically designed for use by minors and which had established procedures to protect minors from access to inappropriate content.

The ABA recommendations outlined above involve both content providers and service providers playing a role in the protection of minors. Content providers are encouraged to place warnings on their sites and may be encouraged to label content voluntarily, using one or more of the established labelling schemes.

Service providers may also play a role protecting minors by providing information about available filter products and adopting procedures which aim to ensure that holders of open Internet accounts are over the age of 18. Service providers might also encourage content providers to provide warnings and label Internet content using established labelling schemes.

As noted earlier, the recommendations in the ABA report are now been considered by Government and appropriate amendments to the Broadcasting Services Act to underpin the regulatory regime for on-line services in Australia are anticipated in late 1997.

Malaysia

Filter software and labelling schemes

The Malaysian Ministry of Education has stated that whilst there is no official position or proposal in relation to the use of filter software to protect children from unsuitable material, parents are encouraged to exercise control over their children in this regard. The ABA was also advised that many parents in Malaysia are already filtering Internet content using filter software available on the Internet.[108]

The Malaysian Ministry of Education has stated that there is currently no official position or proposal in relation to the use of the Platform for Internet Content Selection. However, the Ministry had also advised that 'Telekom Malaysia is seriously looking into' the issue.[109]

In respect to the role of content and service providers the Ministry stated that:

> We believe that all service providers and content providers have moral obligations to protect children from unsuitable materials.[110]

Singapore

The Singaporean Government vigorously encourages wide use of the Internet, including use by children. However, it also recognizes that some content is not suitable for minors.

The SBA is of the view that whilst regulations can provide the minimum safeguards against harmful material, parents and society in general play a crucial, complementary role in protecting children from pornography and other undesirable material.[111]

Filter software and labelling schemes

The SBA has advised that localized Internet service resellers and parents are encouraged to use filter software such as Net Nanny, Surf Watch, CyberPatrol or Net Shepherd to 'guard against access to objectionable material'.[112]

The SBA has announced plans to publicize and encourage the development and use of parental control devices to help parents supervise their children's Internet usage.

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[108] Letter from the Malaysian Ministry of Education, International Relations Division to the ABA dated 12 April 1997.

[109] ibid.

[110] ibid.

[111] Singapore Broadcasting Authority 1996, *Frequently Asked Questions*, part G of press kit for Class Licence Scheme Announcement, 11 July 1996, p.3.

[112] Singapore Broadcasting Authority 1996, News Release, 11 July 1996, p.7
http://www.gov.sg/sba/netreg/regrel.htm

The SBA also encourages the development of content labelling for the protection of minors and is currently studying the many issues involved in such schemes. It is noted that some of the filter software products recommended for use by the SBA offer on-line versions which are compatible with the Platform for Internet Content Selection.

The SBA has advised that agencies such as the Ministry of Education and the National Library Board have expressed a desire to exercise closer supervision in the interests of young Internet users. Further, Internet service providers and Internet content providers are also encouraged to exercise responsibility and take measures to protect the interests and well-being of children through a range of mechanisms including Acceptable Use Policies.[113]

United Kingdom

The UK Government recognizes opportunities presented by on-line services but is also conscious that some Internet content is not suitable for children. The Department of Trade and Industry has stated that, whilst it recognizes that there is no substitute for proper supervision for children's use of the Internet:

> the Government firmly supports the use of filtering and rating technologies by adults with children in their care. Such technologies have the necessary flexibility to allow parents and teachers to tailor a child's experience of the Internet according to individual standards and needs, based on a range of criteria.[114]

The Department has also stated:

> Content providers should ... take responsibility for their material by rating it, helping to ensure that the Internet remains a safe place for children to learn and play. The Government endorsed the open Platform for Internet Content Selection standard for this purpose.[115]

As discussed in earlier chapters, an industry proposal for addressing the issues of content on the Internet, the R-3 Safety-Net proposal, was announced in September 1996. The proposal includes a number of recommendations in regard to filtering and labelling Internet content.

Filter software and labelling schemes

The UK R-3 Safety-Net Proposal makes a clear distinction between 'illegal' Internet content and content which it describes as 'legal, but possibly offensive'. In respect to 'legal, but possibly offensive material' the proposal states:

> Here consumers should have the technological means to tailor the nature of their, or their family's, experience on the Internet according to their individual standards.[116]

The Safety-Net proposal also supported the development of content labelling schemes which are compatible with the Platform for Internet Content Selection (PICS).

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[113] Singapore Broadcasting Authority, March 1997.

[114] Letter from the Department of Trade and Industry to the ABA dated 27 March 1997.

[115] ibid.

[116] *R3 Safety-Net, An Industry Proposal Adopted and Recommended by the Internet Service Providers Association, the London Internet Exchange and the Safety-Net Foundation*, 23 September 1996, at http://www.ispa.org.uk/safetypa.html.

> As a separate activity, the Foundation also intends to assist in, or sponsor, the classification of legal material, to enable users to make use of PICS enabled tools to customize the nature of their experience on the Internet according to their own standards.[117]

These schemes 'further provide the means by which Internet users can protect themselves and their families from exposure to material which, whilst legal, they find offensive'.[118] The proposal also expressed support for the use of PICS technology and the rating of sites on the World Wide Web. It recommended that service providers:

- promote PICS enabled software for accessing the World Wide Web;
- require all their users to rate their own Web pages using the labelling scheme of the Recreational Software Advisory Council for the Internet (RSACi); and
- remove Web pages hosted on their servers which are persistently and deliberately misrated ...[119]

The proposal also recommended extension of the PICS standard to Usenet newsgroups and recommends that service providers should:

- support the development of a new Internet standard for transmitting ratings for newsgroups according to their 'normal content' ...;
- support the availability of ratings sources for all Usenet groups;
- modify news servers to deliver group ratings to end-user software, when the standard becomes available; and
- promote PICS-enabled news software, when available ...[120]

It should be noted that following the proposal some reservations were raised about the appropriateness of using RSACi as the labelling scheme for UK content. A working group was established to consider the issue of content labelling in the UK context and a report of the working group is due to be released in the second half of 1997.

In the meantime, building on the work of this group, the Internet Watch Foundation has been played a central role in the formation of the project called Internet Content Rating for Europe (INCORE). INCORE is a part of a proposed programme of action of the Internet industry in Europe which aims to take action on some of the key aspects of the European Commission's Working Party on Illegal and Harmful Content on the Internet.[121] The objectives of INCORE include:

> to develop rating systems for legal material which meet the requirements of individual users and communities and recognize the implications for member states, for the European Union and world wide.

The Department of Trade and Industry has stated that, when developed, an appropriate rating system could be recommended for use in the UK by an advisory board which

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[117] ibid.

[118] ibid.

[119] See http://www.ispa.org.uk/safetypa.html (16 January 1997).

[120] ibid.

[121] European Commission *Working party on illegal and harmful content on the Internet 1996* http://www2.echo.lu/legal/en/internet/content/wpen.html.

included representatives of children's charities, educationalists, content providers and consumer and civil liberties groups.[122]

The Internet Watch Foundation was also one of the founding members of the international working group on content rating, established in July 1997. The other organizations in the group include the ECO Forum, a German industry association, Childnet International, the Recreational Software Advisory Council and the ABA, discussed in more detail earlier in this chapter.

In addition to the work of Internet Watch, a number of organizations in the UK have adopted strategies to protect children in the on-line environment and ensure that the new services are used in the most productive manner.

For example, NCH Action for Children,[123] Britain's largest child care charity, has established a Web site which includes a 'Parent's Guide to the Internet' and advice on getting the best from the Internet. The advice includes tips on monitoring children's use of the Internet including suggestions regarding controlled access:

> You can ensure inappropriate material is impossible to access by installing one of the many censor programmes.

Censor programmes listed at the site are Cyber Patrol, Net Nanny, CyberSitter and Surf Watch.

Other services include the NETCOM Parent's Advice Line, a 24-hour telephone advice line, and the Parents Information Network. The Network is a national information technology organization offering help to parents who want to use computers with their children. The 'Useful Contacts' page also includes links to PICS and RSACi.

Childnet International is an organization with offices in the UK and the USA and aims, 'to work cooperatively with governments, the communications industry, educational groups and all those concerned for children's welfare'.[124] It does this to promote children's interests in the new communications industry.

The four main fields of activity of Childnet are:

- research: examining the potential impact of new communications methods on children;
- positive projects: illustrating the potential benefits of international communications for children at home, at school and in society;
- promoting good practice: voicing a concern for children to the international communications industry; and
- educating and informing: informing Governments, international agencies, educational bodies, parent groups and the media about how children's interests can be promoted and

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[122] Letter from the Department of Trade and Industry to the ABA dated 27 March 1997.

[123] http://www.nchafc.org.uk (16 January 1997).

[124] See brochure entitled *Promoting the Interests of Children in International Communications*, Childnet International, 1996, p.2. See also http://www.childnet.mdx.ac.uk/childnet

protected.[125]

Childnet has also established a Web site to disseminate information about its activities and the ways of promoting children's interests on-line.[126]

[125] ibid.

[126] See Childnet Web site http://www.childnet.mdx.ac.uk/childnet.

Summary table

Table 4: Four country comparison: protection of children

	Australia	Malaysia	Singapore	UK
Use of filter software	ABA recommends filter software products as an option to protect children on-line.	Parents encouraged to control children's content. Many parents reported to use filter software available from the Internet.	SBA encourages parents to use filter software to protect children on-line.	R3 Safety-Net Proposal encourages use of filter software.
Use of PICS and labelling schemes	ABA supports use of PICS compatible labelling schemes and recommends that a Task Force be set up to consider the issues of content labelling in Australia. Member of International working group on content rating.	Telekom Malaysia reported to be seriously looking into use of PICS.	SBA is studying the various issues related to PICS labelling and is supportive of the development of content labelling for the protection of minors.	R3 Safety-Net Proposal promoted use of PICS and RSACi Internet Watch involved in INCORE Project to develop a labelling scheme for members of the European Union and world wide. Member of International working group on content rating.

8 Community education strategies

Australia

The role of community education

The role of community education in promoting the most productive and beneficial use of the Internet in Australia and ensuring that users, particularly parents, were aware of the options available for managing children's access was recognized in the ABA's report, *Investigation into the Content of On-line Services*. The report recommended, inter alia, that;

- an education strategy be developed to provide information about on-line services;
- the strategy include programmes targeted at parents and guardians;
- information be provided by a number of means including school and parent networks, at point-of-sale for computer hardware and software and at relevant on-line locations, such as the ABA Web site;
- the ABA coordinate a community education campaign; and
- research be undertaken by the ABA and Office of Film and Literature Classification to assist in determining the information requirements of parents and guardians.

The Federal Government has endorsed the need for community education programmes and the role of the ABA in co-ordinating such programmes, together with relevant industry, consumer and government agencies.

On-line services in the education sector

The use of on-line services is well established in Australian university and research environments. In recent years the other sectors of education have begun to deploy on-line technologies to extend the reach and effectiveness of teachers' work in terms of curriculum development, delivery and professional support and development. Outside the learning process, the development of networks can enhance educational administration and the provision of such services as libraries.

Most educational bodies in Australia are committed to incorporating on-line services into teaching and learning programmes and many schools have begun to consider how they can best enable students to achieve educational goals. The Department of Schools Education in the most populous state of New South Wales (NSW) has established an Intranet service which also provides Internet access for every school in the state system. Filtering of sites which are considered inappropriate for students is provided at the ISP level. Filter software is available on the school computers to be configured in accordance with the policy for student access developed by individual school communities. There is considerable interest in the approach taken in NSW by other states where at this stage it appears that the responsibility for managing student access to those services is largely being exercised at the school or institutional level.

Schools have adopted a range of mechanisms to deal with on-line access for students. These include direct supervision, developing acceptable use policies and guidelines, students

contracts, using filter software and using specialist services designed for use by children. The report, *Management of Student Access to Controversial Material on the Internet*, commissioned by the Schools Council of the National Board of Employment, Education and Training, is particularly useful in outlining the issues which the Internet presents to schools and the manner in which these issues are presently being dealt with.[127]

There are also a number of specific on-line projects and products which have been developed specifically for the school environment. One example is the database developed by the Educational Network of Australia (EdNA). The EdNA project was created following an in principle agreement given by all Australian State and Territory governments at a meeting of the Ministerial Council on Education, Employment, Training and Youth Affairs in May 1995.

The project aims to provide Australia-wide access to all products and services of interest to Australian educators and students, with EdNA coordinating and promoting the development of quality content. EdNA will provide a range of networked information services which can be accessed by students and staff from all government and non-government schools throughout Australia. It will include educational content and services, professional development programmes, electronic mail and news.

The need for the development of professional development strategies aimed at giving teachers technical competence with on-line services has been widely recognized by a number of State and Federal educational bodies. To meet this need a range of training programmes for teachers have been introduced or proposed.

Malaysia

The role of community education

The Malaysian Ministry of Education has advised that a number of programmes to create awareness in the community about the Internet have been proposed and will be introduced in the near future.

On-line services in the education sector

As noted in chapter 5, Malaysia has adopted a range of initiatives which aim to ensure the success of the Multimedia Super Corridor (MSC). In a recent speech the Prime Minister of Malaysia, Dr Mahathir, indicated that all schools would be connected to the Internet by 1998 and that the rest of the country would follow thereafter.[128] The Education Ministry of Malaysia is also working to increase the role of multimedia in education:

> Teachers will need to change their role in the electronic classroom from being information providers to counselors in order to help the students know how to select information sources, to make judgments about what they are downloading ... The measure of our success in 2020 will be the number and quality of our people who can add value to information. To that end, we will be

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[127] *Management of Student Access to Controversial Material on the Internet*, Schools Council of the National Board of Employment, Education and Training, CIRCIT, Melbourne, 1996. For more information about this report see http://teloz.latrobe.edu.au/circit/schome.html.

[128] op cit.

creating a Multimedia University and technology schools within the MSC.[129]

Singapore

The role of community education

The Singapore Broadcasting Authority has expressed an intention to play an active role in community education and has identified a number of public education strategies to alert parents to the ways in which they may protect their children from 'objectionable material and cyberspace abuses'.[130]

These strategies include establishing a page on the SBA's Web site which contains information and 'Tips for Parents'.[131] Other initiatives include collaborating with other government agencies and industry members in a community education programme comprising talks, quizzes, exhibitions and other activities aimed at engaging various sections of the public.[132]

On-line services in the education sector

The Singaporean Ministry of Education (MOE) has placed a strong emphasis on the development of on-line educational services and the promotion of the use of IT in schools.

The MOE has formed an Educational Technology Division (ETD) to oversee implementation of the Ministry's Masterplan for IT in Education which will integrate existing IT initiatives and develop the use of IT in teaching and learning. The Ministry of Education has been allotted a budget of $S1.5 billion to fulfil the Masterplan for IT in Education. Internet usage will form a component of this plan and the ETD aims to develop the full range of educational technology materials and coordinate their use in schools to bring about more effective teaching and learning. It intends to train teachers in the use of educational technology, particularly in the use of IT for teaching and learning and design classroom-related activities for use in schools.[133]

Already many secondary and tertiary educational institutions in Singapore have Internet programmes and in certain schools, each student has his or her own Internet account.

United Kingdom

The role of community education

The desirability of community education strategies has been recognized by a number of government, industry and community bodies in the UK. It has also been emphasized by the European Commission in its work in the area of on-line services.[134]

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[129] See http://www.smpke.jpm.my/mmedia.html (6 February 1997).

[130] Singapore Broadcasting Authority, March 1997.

[131] See http://www.sba.gov.sg/tips.htm

[132] Singapore Broadcasting Authority, March 1997.

[133] Singapore Broadcasting Authority, March 1997.

[134] European Commission *Green Paper on the Protection of Minors and Human Dignity in Audiovisual and Information Services 1996* http://www2.echo.lu/legal/en/internet/content/gpen-toc.html (http://europa.eu.int/en/record/green/gp9610/protec.htm - Word version).

The UK Government has adopted a number of schemes to advance the information society in the UK. These schemes are known collectively as the Information Society Initiative[135] and one recent programme is called 'IT for All'. The schemes seek to work in partnership with business, local government, universities and the voluntary sector to promote public awareness of the benefits of using information and communications technologies, including on-line services, in daily life.

As discussed in chapter 7 a number of initiatives have also been undertaken by various non-governmental organizations in the UK which seek to enhance community understanding of the Internet and provide some guidance for parents on how they might manage their children's Internet use. These include NCH Action for Children, the Parents Information Network and Childnet International.

On-line services in the education sector

In July 1996 the House of Lords Select Committee on Science and Technology published a report, *Information Society: Agenda for Action in the UK*. The report contained 40 recommendations for action to promote the development of the Information Society, and a number of these dealt with information technology (IT) in schools.

The Government's response to the report[136] indicated that a number of initiatives were in place to ensure newly qualified teachers had IT skills and that the Teacher Training Agency (TTA) was looking at additional means to improve teacher competence in this area. It also stated that the Government was supporting a number of measures regarding continuing professional development in IT.

A joint government/industry project for teachers, 'Schools On-line', was also recommended in the Government's response to the *Information Society* report. The project aims to link schools to the Internet and to research the benefits which might accrue to teachers and pupils from using the Internet as an educational resource. The project also includes strategies for developing teachers' Internet skills. Phase one of the project has already linked 60 schools to the Internet and phase two is reported to be under way.

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[135] Letter from the UK Department of Trade and Industry to the ABA dated 27 March 1997.

[136] See http://dtiinfo1.dti.gov.uk/hol/

Summary table

Table 5: Four country comparison: community education strategies

	Australia	Malaysia	Singapore	UK
Role of community education	Importance recognized by the ABA, the industry and the educational sector	The Malaysian Ministry of Education stated that a number of community education programmes have been proposed for the near future.	Importance recognized by SBA and a number of strategies have been adopted, including 'Tips for Parents' on the SBA Home Page.	Role of community education initiatives well recognized by Government and industry. The Information Society Initiative has been adopted.
Responsibility	ABA recommended a cooperative educational strategy which involves industry, consumer and government agencies. The strategy should include programmes targeted at parents and guardians.	Education Ministry is working to increase the role of multimedia in education and has announced a number of strategies, including the creation of a Multimedia University.	SBA aims to collaborate with other government agencies and industry in a wide range of community education programmes.	Government aims to work together with industry, the university sector, local government and the voluntary sector.
Education sector initiatives	A number of initiatives adopted including the EdNA project.	Connection of schools and teacher training have been identified as strategies in conjunction with MSC.	Educational Technology Division to advance MOE's Masterplan for IT in education.	A number of Government initiatives are being introduced including the Schools On-line project.

Appendix A

Contributors

The ABA sent relevant sections of the draft UNESCO study to the following, seeking comments on accuracy and completeness:

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Singapore

Singapore Broadcasting Authority

United Kingdom

Broadcasting Standards Council (BSC)

BT Multimedia Services

Department of Trade and Industry (DTI)

Independent Television Commission (ITC)

Internet Watch Foundation

Appendix B

Services available on-line

Some of the major types of services which are currently available on-line include:

E-mail: This is currently the most popular service used. While it is mainly used for textual communication, extensions to e-mail systems allow transmission of files and multimedia content. E-mail is primarily a one-to-one communication channel, but some services (such as mailing-lists) allow e-mail to function in other modes, such as one-to-many.

Newsgroups: Newsgroups, also known as Usenet, are shared forums where people discuss matters of common interest. Content is usually provided as text or graphs or combinations of the two. Newsgroups usually take the form many-to-many communications.

Bulletin Boards: Bulletin boards are the forerunners of newsgroups, and available on public access computer systems. They usually take the form of shared discussion sites.

Internet Relay Chat (IRC): IRC is real-time textual discussion. Like Usenet, IRC is usually organized into topics of interest.

File Transfer Protocol (FTP): FTP is a system whereby files can be placed, retrieved and manipulated on remote computers. FTP is often used for downloading files from public-access repositories.

Telnet: Telnet is protocol which allows users to execute commands on a remote system and see their results on a text-mode screen. It can be used for a range of purposes, including remote administration, games, bulletin boards and database access.

World Wide Web (WWW): The introduction of WWW systems have been the most important recent development in on-line services, providing a simplified system for location and access of multimedia and interactive content along with plain text. The WWW is a hypertext environment, where objects in one document can be linked to other documents, potentially anywhere on the Internet.

Games: Game systems are an increasingly popular form of on-line entertainment. These games range from communal text-based role-playing games, to graphic-intensive arcade games. There common feature is that they allow interaction between one or more people connected to the Internet.

While this seeks to outline the main Internet services being provided at present, it should be noted that the on-line environment is extremely dynamic. For this reason it is likely that the range and nature of the services available throughout the medium will continue to develop at a rapid rate.

Appendix C

Acronyms & abbreviations

Commonly used abbreviations and acronyms in this report

ABA	Australian Broadcasting Authority
CAUDIT	Committee of Australian University Directors of Information Technology
CDA	Communications Decency Act 1996 (USA)
CLRC	Copyright Law Reform Committee (Australia)
DTI	Department of Trade and Industry (UK)
e-mail	electronic mail
EC	European Commission
EdNA	Education Network Australia
ETD	Educational Technology Division (section of Singapore's Ministry of Education)
EU	European Union
FTP	File Transfer Protocol
INCORE	Internet Content Rating for Europe
intiaa	Internet Industry Association of Australia
IRC	Internet Relay Chat
ISDN	Integrated Digital Services Network
ISP	Internet service provider
ISPA-UK	Internet Service Providers Association (UK)
IT	Information Technology
ITC	Independent Television Commission (UK)
JARING	Joint Advanced Research Integrated Networking (Malaysia)
LINX	London Internet Exchange
MIMOS Berhad	Malaysian Institute of Microelectronic Systems
MIT	Massachusetts Institute of Technology (USA)
MOE	Ministry of Education (both Malaysia and Singapore have a Ministry of Education)

MSC	Multimedia Super Corridor (Malaysia)
NCC	OFLC's National Classification Code
NCIS	National Criminal Intelligence Service (UK)
OAP	on-line access provider
OFLC	Office of Film and Literature Classification (Australia)
PICS	Platform for Internet Content Selection
RC	Refused Classification (under the OFLC's NCC and guidelines)
RSAC	Recreational Software Advisory Council
RSACi	Labelling Scheme developed by the Recreational Software Advisory Council for the Internet
SBA	Singapore Broadcasting Authority
TMnet	Malaysia Telekom Berhad
TTA	Teacher Training Agency (UK)
UNESCO	United Nations Educational, Scientific and Cultural Organization
URL	Uniform Resource Location
WA	Western Australia
WAIA	Western Australia Internet Association
W3C	World Wide Web Consortium
WWW	World Wide Web

Appendix D

Some useful Web resources

- Australian Broadcasting Authority (ABA) Homepage: http://www.dca.gov.au/aba/hpcov.htm; and *Investigation into the Content of On-line Services*: http://www.dca.gov.au/aba/invest.htm
- *American Civil Liberties Union et al v Janet Reno, Attorney General of the United States, American Library Association Inc et al v United States Department of Justice et al*, United States District Court for the Eastern District of Pennsylvania, 11 June 1996 is available from http://www.epic.org/CDA as well as the Supreme Court appeal
- Committee of Australian University Directors of IT (CAUDIT) http://www.caudit.edu.au
- Education Network Australia (EdNA): http://www.edna.edu.au
- European Commission 'Promoting Best Use, Preventing Misuse': http://www2.echo.lu/best_use/best_use.html
- Internet Service Providers Association of the United Kingdom (ISPA-UK): http://www.ispa.org.uk
- Internet Law and Policy Forum: http://www.ilpf.org
- Internet Watch Home Page: http://www.internetwatch.org.ukMalaysia Homepage: http://www.jaring.my
- Malaysia's Multimedia Super Corridor (MSC): http://www.mdc.com.my
- NCH Action for Children: http://www.nchafc.org.uk
- Net Nanny: http://www.netnanny.com
- Net Shepherd: http://www.netshepherd.com
- Office of Film and Film and Literature Classification (OFLC) Australia: http://www.oflc.gov.au
- Organization for Economic Co-operation and Development (OECD): http://www.oecd.org
- Platform for Internet Content Selection (PICS): http://www.w3.org/PICS
- Recreational Software Advisory Council (RSAC): http://www.rsac.org
- SafeSurf: http://www.safesurf.com
- Safety-Net: http://www.ispa.org.uk/safetynet.shtml
- Singapore Broadcasting Authority: http://www.sba.gov.sg
- SurfWatch: http://www.surfwatch.com
- Telstra Australia: http://www.telstra.com.au
- UK Department of Trade and Industry (DTI): http://www.dti.gov.uk
- Response to the Report by the House of Lords Select Committee on Science and Technology: http://dtiinfo1.gov.uk/hol

- United Nations Educational Scientific and Cultural Organization (UNESCO): http://www.unesco.org
- World Wide Web Consortium (W3C): http://www.w3.org